

# THE STATE SCHOOL AID ACT OF 1979

## Act 94 of 1979

AN ACT to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to create certain funds and provide for their expenditure; to prescribe penalties; and to repeal acts and parts of acts.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Sec. 42, as added by Act 207 of 1990, was vetoed by the governor on July 27, 1990.  
Secs. 43, 92, and 111a, as added by Act 118 of 1991, were vetoed by the governor on October 11, 1991.  
Sec. 71a, as added by Act 283 of 1994, was vetoed by the governor on July 9, 1994.  
Secs. 20h, 28b, 56a, and 94a, as added by Act 130 of 1995, were vetoed by the governor on June 30, 1995.  
Secs. 29 and 95a, as added by Act 300 of 1996, were vetoed by the governor on June 19, 1996.  
Sec. 11e, as added by Act 372 of 1996, was vetoed by the governor July 3, 1996.  
Sec. 11j, Sec. 11k, and Sec. 31b, as added by Act 339 of 1998, were vetoed by the governor on October 13, 1998.  
Secs. 20k and 34, as added by Act 119 of 1999, were vetoed by the governor on July 19, 1999.  
Secs. 11j and 11l, as added by Act 297 of 2000, were vetoed by the governor on June 26, 2000.  
Secs. 22d, 22e, and 55a, as added by Act 158 of 2003, were vetoed by the governor on August 11, 2003.

*The People of the State of Michigan enact:*

## ARTICLE 1

### 388.1601 Short title.

Sec. 1. The act shall be known and may be cited as “the state school aid act of 1979”.

**History:** 1979, Act 94, Eff. Oct. 1, 1979.

**Compiler's note:** For creation of Michigan public educational facilities authority within department of treasury; transfer of certain powers and duties from Michigan strategic fund and Michigan strategic fund board of directors to Michigan public educational facilities authority and Michigan public educational facilities authority board of trustees; transfer of certain powers and duties of Michigan municipal bond authority and Michigan municipal bond authority board of trustees to Michigan public and educational facilities authority and Michigan public education facilities authority board of trustees, see E.R.O. No. 2002-3, compiled at § 12.192 of the Michigan Compiled Laws.

### 388.1602 Meanings of words and phrases.

Sec. 2. For the purposes of this act the words and phrases defined in sections 3 to 6 have the meanings ascribed to them in those sections.

**History:** 1979, Act 94, Eff. Oct. 1, 1979.

### 388.1603 Definitions; A to D.

Sec. 3. (1) “Average daily attendance”, for the purposes of complying with federal law, means 92% of the membership as defined in section 6(4).

(2) “Board” means the governing body of a district or public school academy.

(3) “Center” means the center for educational performance and information created in section 94a.

(4) “Cooperative education program” means a written voluntary agreement between and among districts to provide certain educational programs for pupils in certain groups of districts. The written agreement shall be approved by all affected districts at least annually and shall specify the educational programs to be provided and the estimated number of pupils from each district who will participate in the educational programs.

(5) “Department”, except in sections 67, 68, 107, and 108, means the department of education.

(6) “District” means a local school district established under the revised school code, a local act school district, or, except in sections 6(4), 6(6), 13, 20, 22a, 23, 31a, 32f, 105, and 105c, a public school academy. Except in sections 6(4), 6(6), 13, 20, 22a, 105, and 105c, district also includes a university school.

(7) "District of residence", except as otherwise provided in this subsection, means the district in which a pupil's custodial parent or parents or legal guardian resides. For a pupil described in section 24b, the pupil's district of residence is the district in which the pupil enrolls under that section. For a pupil described in section 6(4)(d), the pupil's district of residence shall be considered to be the district or intermediate district in which the pupil is counted in membership under that section. For a pupil under court jurisdiction who is placed outside the district in which the pupil's custodial parent or parents or legal guardian resides, the pupil's district of residence shall be considered to be the educating district or educating intermediate district.

(8) "District superintendent" means the superintendent of a district, the chief administrator of a public school academy, or the chief administrator of a university school.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1988, Act 509, Imd. Eff. Dec. 29, 1988;—Am. 1989, Act 235, Imd. Eff. Dec. 21, 1989;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1991, Act 200, Imd. Eff. Jan. 2, 1992;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1994, Act 360, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

### 388.1604 Definitions; E to H.

Sec. 4. (1) "Elementary pupil" means a pupil in membership in grades K to 8 in a district not maintaining classes above the eighth grade or in grades K to 6 in a district maintaining classes above the eighth grade.

(2) "Extended school year" means an educational program conducted by a district in which pupils must be enrolled but not necessarily in attendance on the pupil membership count day in an extended year program. The mandatory days of student instruction and prescribed clock hours shall be completed by each pupil not more than 365 calendar days after the pupil's first day of classes for the school year prescribed. The department shall prescribe pupil, personnel, and other reporting requirements for the educational program.

(3) "Fiscal year" means the state fiscal year which commences October 1 and continues through September 30.

(4) "General educational development testing preparation program" means a program that has high school level courses in writing skills, social studies, science, reading skills, and mathematics and that prepares a person to successfully complete the general educational development (GED) test.

(5) "High school pupil" means a pupil in membership in grades 7 to 12, except in a district not maintaining grades above the eighth grade.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1995, Act 130, Eff. Oct. 1, 1995.

### 388.1605 Definitions; I.

Sec. 5. (1) "Intermediate board" means the governing body of an intermediate district.

(2) "Intermediate district" means an intermediate school district established under part 7 of the revised school code.

(3) "Intermediate superintendent" means the superintendent of an intermediate district.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996.

### 388.1606 Additional definitions.

Sec. 6. (1) "Center program" means a program operated by a district or intermediate district for special education pupils from several districts in programs for the autistically impaired, trainable mentally impaired, severely mentally impaired, severely multiply impaired, hearing impaired, physically and otherwise health impaired, and visually impaired. Programs for emotionally impaired pupils housed in buildings that do not serve regular education pupils also qualify. Unless otherwise approved by the department, a center program either shall serve all constituent districts within an intermediate district or shall serve several districts with less than 50% of the pupils residing in the operating district. In addition, special education center program pupils placed part-time in noncenter programs to comply with the least restrictive environment provisions of section 612 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1412, may be considered center program pupils for pupil accounting purposes for the time scheduled in either a center program or a noncenter program.

(2) "District and high school graduation rate" means the annual completion and pupil dropout rate that is calculated by the center pursuant to nationally recognized standards.

(3) "District and high school graduation report" means a report of the number of pupils, excluding migrant and adult, in the district for the immediately preceding school year, adjusted for those pupils who have transferred into or out of the district or transferred to alternative programs, who leave high school with a diploma or other

credential.

(4) "Membership", except as otherwise provided in this act, means for a district, public school academy, university school, or intermediate district the sum of the product of .8 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year, plus the product of .2 times the final audited count from the supplemental count day for the immediately preceding school year. All pupil counts used in this subsection are as determined by the department and calculated by adding the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit. The amount of the foundation allowance for a pupil in membership is determined under section 20. In making the calculation of membership, all of the following, as applicable, apply to determining the membership of a district, public school academy, university school, or intermediate district:

(a) Except as otherwise provided in this subsection, and pursuant to subsection (6), a pupil shall be counted in membership in the pupil's educating district or districts. An individual pupil shall not be counted for more than a total of 1.0 full-time equated membership.

(b) If a pupil is educated in a district other than the pupil's district of residence, if the pupil is not being educated as part of a cooperative education program, if the pupil's district of residence does not give the educating district its approval to count the pupil in membership in the educating district, and if the pupil is not covered by an exception specified in subsection (6) to the requirement that the educating district must have the approval of the pupil's district of residence to count the pupil in membership, the pupil shall not be counted in membership in any district.

(c) A special education pupil educated by the intermediate district shall be counted in membership in the intermediate district.

(d) A pupil placed by a court or state agency in an on-grounds program of a juvenile detention facility, a child caring institution, or a mental health institution, or a pupil funded under section 53a, shall be counted in membership in the district or intermediate district approved by the department to operate the program.

(e) A pupil enrolled in the Michigan schools for the deaf and blind shall be counted in membership in the pupil's intermediate district of residence.

(f) A pupil enrolled in a vocational education program supported by a millage levied over an area larger than a single district or in an area vocational-technical education program established pursuant to section 690 of the revised school code, MCL 380.690, shall be counted only in the pupil's district of residence.

(g) A pupil enrolled in a university school shall be counted in membership in the university school.

(h) A pupil enrolled in a public school academy shall be counted in membership in the public school academy.

(i) For a new district, university school, or public school academy beginning its operation after December 31, 1994, membership for the first 2 full or partial fiscal years of operation shall be determined as follows:

(i) If operations begin before the pupil membership count day for the fiscal year, membership is the average number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year and on the supplemental count day for the current school year, as determined by the department and calculated by adding the number of pupils registered for attendance on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(ii) If operations begin after the pupil membership count day for the fiscal year and not later than the supplemental count day for the fiscal year, membership is the final audited count of the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the supplemental count day for the current school year.

(j) If a district is the authorizing body for a public school academy, then, in the first school year in which pupils are counted in membership on the pupil membership count day in the public school academy, the determination of the district's membership shall exclude from the district's pupil count for the immediately preceding supplemental count day any pupils who are counted in the public school academy on that first pupil membership count day who were also counted in the district on the immediately preceding supplemental count day.

(k) In a district, public school academy, university school, or intermediate district operating an extended school year program approved by the superintendent, a pupil enrolled, but not scheduled to be in regular daily attendance on a pupil membership count day, shall be counted.

(l) Pupils to be counted in membership shall be not less than 5 years of age on December 1 and less than 20 years of age on September 1 of the school year except a special education pupil who is enrolled and receiving instruction in a special education program or service approved by the department and not having a high school diploma who is

less than 26 years of age as of September 1 of the current school year shall be counted in membership.

(m) An individual who has obtained a high school diploma shall not be counted in membership. An individual who has obtained a general education development (G.E.D.) certificate shall not be counted in membership. An individual participating in a job training program funded under former section 107a or a jobs program funded under former section 107b, administered by the Michigan strategic fund or the department of career development, or participating in any successor of either of those 2 programs, shall not be counted in membership.

(n) If a pupil counted in membership in a public school academy is also educated by a district or intermediate district as part of a cooperative education program, the pupil shall be counted in membership only in the public school academy, and the instructional time scheduled for the pupil in the district or intermediate district shall be included in the full-time equated membership determination under subdivision (q). However, for pupils receiving instruction in both a public school academy and in a district or intermediate district but not as a part of a cooperative education program, the following apply:

(i) If the public school academy provides instruction for at least 1/2 of the class hours specified in subdivision (q), the public school academy shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the public school academy provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the district or intermediate district providing the remainder of the hours of instruction.

(ii) If the public school academy provides instruction for less than 1/2 of the class hours specified in subdivision (q), the district or intermediate district providing the remainder of the hours of instruction shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the district or intermediate district provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the public school academy.

(o) An individual less than 16 years of age as of September 1 of the current school year who is being educated in an alternative education program shall not be counted in membership if there are also adult education participants being educated in the same program or classroom.

(p) The department shall give a uniform interpretation of full-time and part-time memberships.

(q) The number of class hours used to calculate full-time equated memberships shall be consistent with section 101(3). In determining full-time equated memberships for pupils who are enrolled in a postsecondary institution, a pupil shall not be considered to be less than a full-time equated pupil solely because of the effect of his or her postsecondary enrollment, including necessary travel time, on the number of class hours provided by the district to the pupil.

(r) Full-time equated memberships for pupils in kindergarten shall be determined by dividing the number of class hours scheduled and provided per year per kindergarten pupil by a number equal to 1/2 the number used for determining full-time equated memberships for pupils in grades 1 to 12.

(s) For a district, university school, or public school academy that has pupils enrolled in a grade level that was not offered by the district, university school, or public school academy in the immediately preceding school year, the number of pupils enrolled in that grade level to be counted in membership is the average of the number of those pupils enrolled and in regular daily attendance on the pupil membership count day and the supplemental count day of the current school year, as determined by the department. Membership shall be calculated by adding the number of pupils registered for attendance in that grade level on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(t) A pupil enrolled in a cooperative education program may be counted in membership in the pupil's district of residence with the written approval of all parties to the cooperative agreement.

(u) If, as a result of a disciplinary action, a district determines through the district's alternative or disciplinary education program that the best instructional placement for a pupil is in the pupil's home, if that placement is authorized in writing by the district superintendent and district alternative or disciplinary education supervisor, and if the district provides appropriate instruction as described in this subdivision to the pupil at the pupil's home, the district may count the pupil in membership on a pro rata basis, with the proration based on the number of hours of instruction the district actually provides to the pupil divided by the number of hours specified in subdivision (q) for full-time equivalency. For the purposes of this subdivision, a district shall be considered to be providing appropriate instruction if all of the following are met:

## THE STATE SCHOOL AID ACT OF 1979

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- (i) The district provides at least 2 nonconsecutive hours of instruction per week to the pupil at the pupil's home under the supervision of a certificated teacher.
  - (ii) The district provides instructional materials, resources, and supplies, except computers, that are comparable to those otherwise provided in the district's alternative education program.
  - (iii) Course content is comparable to that in the district's alternative education program.
  - (iv) Credit earned is awarded to the pupil and placed on the pupil's transcript.
  - (v) A pupil enrolled in an alternative or disciplinary education program described in section 25 shall be counted in membership in the district or public school academy that expelled the pupil.
  - (w) If a pupil was enrolled in a public school academy on the pupil membership count day, if the public school academy's contract with its authorizing body is revoked, and if the pupil enrolls in a district within 45 days after the pupil membership count day, the department shall adjust the district's pupil count for the pupil membership count day to include the pupil in the count.
  - (x) For a public school academy that has been in operation for at least 2 years and that suspended operations for at least 1 semester and is resuming operations, membership is the sum of the product of .8 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the first pupil membership count day or supplemental count day, whichever is first, occurring after operations resume, plus the product of .2 times the final audited count from the most recent pupil membership count day or supplemental count day that occurred before suspending operations, as determined by the superintendent.
  - (y) If a district's membership for a particular fiscal year, as otherwise calculated under this subsection, would be less than 1,550 pupils and the district has 4.5 or fewer pupils per square mile, as determined by the department, the district's membership shall be considered to be the membership figure calculated under this subdivision. If a district educates and counts in its membership pupils in grades 9 to 12 who reside in a contiguous district that does not operate grades 9 to 12 and if 1 or both of the affected districts request the department to use the determination allowed under this sentence, the department shall include the square mileage of both districts in determining the number of pupils per square mile for each of the districts for the purposes of this subdivision. The membership figure calculated under this subdivision is the greater of the following:
    - (i) The average of the district's membership for the 3-fiscal-year period ending with that fiscal year, calculated by adding the district's actual membership for each of those 3 fiscal years, as otherwise calculated under this subsection, and dividing the sum of those 3 membership figures by 3.
    - (ii) The district's actual membership for that fiscal year as otherwise calculated under this subsection.
  - (z) If a public school academy that is not in its first or second year of operation closes at the end of a school year and does not reopen for the next school year, the department shall adjust the membership count of the district in which a former pupil of the public school academy enrolls and is in regular daily attendance for the next school year to ensure that the district receives the same amount of membership aid for the pupil as if the pupil were counted in the district on the supplemental count day of the preceding school year.
- (5) "Public school academy" means a public school academy, urban high school academy, or strict discipline academy operating under the revised school code.
- (6) "Pupil" means a person in membership in a public school. A district must have the approval of the pupil's district of residence to count the pupil in membership, except approval by the pupil's district of residence is not required for any of the following:
- (a) A nonpublic part-time pupil enrolled in grades 1 to 12 in accordance with section 166b.
  - (b) A pupil receiving 1/2 or less of his or her instruction in a district other than the pupil's district of residence.
  - (c) A pupil enrolled in a public school academy or university school.
  - (d) A pupil enrolled in a district other than the pupil's district of residence under an intermediate district schools of choice pilot program as described in section 91a or former section 91 if the intermediate district and its constituent districts have been exempted from section 105.
  - (e) A pupil enrolled in a district other than the pupil's district of residence but within the same intermediate district if the educating district enrolls nonresident pupils in accordance with section 105.
  - (f) A pupil enrolled in a district other than the pupil's district of residence if the pupil has been continuously enrolled in the educating district since a school year in which the pupil enrolled in the educating district under section 105 or 105c and in which the educating district enrolled nonresident pupils in accordance with section 105 or 105c.
  - (g) A pupil who has made an official written complaint or whose parent or legal guardian has made an official written complaint to law enforcement officials and to school officials of the pupil's district of residence that the pupil has been the victim of a criminal sexual assault or other serious assault, if the official complaint either



indicates that the assault occurred at school or that the assault was committed by 1 or more other pupils enrolled in the school the pupil would otherwise attend in the district of residence or by an employee of the district of residence. A person who intentionally makes a false report of a crime to law enforcement officials for the purposes of this subdivision is subject to section 411a of the Michigan penal code, 1931 PA 328, MCL 750.411a, which provides criminal penalties for that conduct. As used in this subdivision:

(i) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(ii) "Serious assault" means an act that constitutes a felony violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, or that constitutes an assault and infliction of serious or aggravated injury under section 81a of the Michigan penal code, 1931 PA 328, MCL 750.81a.

(h) A pupil enrolled in a district located in a contiguous intermediate district, as described in section 105c, if the educating district enrolls those nonresident pupils in accordance with section 105c.

(i) A pupil whose district of residence changed after the pupil membership count day and before the supplemental count day and who continues to be enrolled on the supplemental count day as a nonresident in the district in which he or she was enrolled as a resident on the pupil membership count day of the same school year.

(j) A pupil enrolled in an alternative education program operated by a district other than his or her district of residence who meets 1 or more of the following:

(i) The pupil has been suspended or expelled from his or her district of residence for any reason, including, but not limited to, a suspension or expulsion under section 1310, 1311, or 1311a of the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

(ii) The pupil had previously dropped out of school.

(iii) The pupil is pregnant or is a parent.

(iv) The pupil has been referred to the program by a court.

(k) A pupil enrolled in the Michigan virtual high school, for the pupil's enrollment in the Michigan virtual high school.

(l) A pupil who is the child of a person who is employed by the district. As used in this subdivision, "child" includes an adopted child or legal ward.

However, if a district that is not a first class district educates pupils who reside in a first class district and if the primary instructional site for those pupils is located within the boundaries of the first class district, the educating district must have the approval of the first class district to count those pupils in membership. As used in this subsection, "first class district" means a district organized as a school district of the first class under the revised school code.

(7) "Pupil membership count day" of a district or intermediate district means:

(a) Except as provided in subdivision (b), the fourth Wednesday in September each school year.

(b) For a district or intermediate district maintaining school during the entire school year, the following days:

(i) Fourth Wednesday in July.

(ii) Fourth Wednesday in September.

(iii) Second Wednesday in February.

(iv) Fourth Wednesday in April.

(8) "Pupils in grades K to 12 actually enrolled and in regular daily attendance" means pupils in grades K to 12 in attendance and receiving instruction in all classes for which they are enrolled on the pupil membership count day or the supplemental count day, as applicable. A pupil who is absent from any of the classes in which the pupil is enrolled on the pupil membership count day or supplemental count day and who does not attend each of those classes during the 10 consecutive school days immediately following the pupil membership count day or supplemental count day, except for a pupil who has been excused by the district, shall not be counted as 1.0 full-time equated membership. In addition, a pupil who is excused from attendance on the pupil membership count day or supplemental count day and who fails to attend each of the classes in which the pupil is enrolled within 30 calendar days after the pupil membership count day or supplemental count day shall not be counted as 1.0 full-time equated membership. Pupils not counted as 1.0 full-time equated membership due to an absence from a class shall be counted as a prorated membership for the classes the pupil attended. For purposes of this subsection, "class" means a period of time in 1 day when pupils and a certificated teacher or legally qualified substitute teacher are together and instruction is taking place.

(9) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) "The revised school code" means 1976 PA 451, MCL 380.1 to 380.1852.

## THE STATE SCHOOL AID ACT OF 1979

- (11) "School fiscal year" means a fiscal year that commences July 1 and continues through June 30.
- (12) "State board" means the state board of education.
- (13) "Superintendent", unless the context clearly refers to a district or intermediate district superintendent, means the superintendent of public instruction described in section 3 of article VIII of the state constitution of 1963.
- (14) "Supplemental count day" means the day on which the supplemental pupil count is conducted under section 6a.
- (15) "Tuition pupil" means a pupil of school age attending school in a district other than the pupil's district of residence for whom tuition may be charged. Tuition pupil does not include a pupil who is a special education pupil or a pupil described in subsection (6)(d) to (l). A pupil's district of residence shall not require a high school tuition pupil, as provided under section 111, to attend another school district after the pupil has been assigned to a school district.
- (16) "State school aid fund" means the state school aid fund established in section 11 of article IX of the state constitution of 1963.
- (17) "Taxable value" means the taxable value of property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.
- (18) "Textbook" means a book that is selected and approved by the governing board of a district and that contains a presentation of principles of a subject, or that is a literary work relevant to the study of a subject required for the use of classroom pupils, or another type of course material that forms the basis of classroom instruction.
- (19) "Total state aid" or "total state school aid" means the total combined amount of all funds due to a district, intermediate district, or other entity under all of the provisions of this act.
- (20) "University school" means an instructional program operated by a public university under section 23 that meets the requirements of section 23.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1979, Act 112, Imd. Eff. Oct. 4, 1979;—Am. 1979, Act 209, Imd. Eff. Jan. 10, 1980;—Am. 1980, Act 269, Imd. Eff. Sept. 30, 1980;—Am. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1981, Act 113, Eff. Oct. 1, 1981;—Am. 1981, Act 134, Imd. Eff. Oct. 20, 1981;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 218, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1984, Act 253, Imd. Eff. Nov. 29, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1985, Act 144, Imd. Eff. Nov. 4, 1985;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1986, Act 298, Imd. Eff. Dec. 22, 1986;—Am. 1987, Act 220, Eff. Dec. 28, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1989, Act 235, Imd. Eff. Dec. 21, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1991, Act 200, Imd. Eff. Jan. 2, 1992;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 95, Imd. Eff. July 13, 1993;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1994, Act 360, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Eff. Sept. 1, 1996;—Am. 1997, Act 93, Imd. Eff. Aug. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003;—Am. 2004, Act 227, Imd. Eff. July 21, 2004.

**Compiler's note:** The school district pupil accounting for distribution of state aid rules referred to in subsection (2) became effective August 17, 1984.

Section 2 of Act 220 of 1987 provides: "In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act is \$2,334,299,200.00 and state appropriations to be paid to local units of government are \$2,005,216,000.00."

Section 4 of Act 220 of 1987 provides: "The changes effected by this amendatory act shall be applied retroactively to October 1, 1987."

Subdivisions 4(u), 4(w), and 4(x), as added by Act 300 of 1996, were vetoed by the governor on June 19, 1996.

In subsection (4), as amended by Act 93 of 1997, the following sentences were vetoed by the governor on August 1, 1997: "Membership", except as otherwise provided in this act, means for a district, public school academy, university school, or intermediate district the sum of the product of .6 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year, plus the product of .4 times the final audited count from the supplemental count day for the immediately preceding school year, as determined by the department and calculated by adding the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the state board, and as corrected by a subsequent department audit. The amount of the foundation allowance to be paid on behalf of a pupil in membership is determined under section 20.

Subdivisions (4)(x) and (4)(y), as amended by Act 93 of 1997, were vetoed by the governor on August 1, 1997.

Subdivision (4)(y), as amended by Act 339 of 1998, was vetoed by the governor on October 13, 1998.

In subdivision (4)(y), as amended by Act 297 of 2000, the phrase "2001-2002, and 2002-2003" was vetoed by the governor July 26, 2000. Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

**Administrative rules:** R 340.1 et seq. of the Michigan Administrative Code.

**388.1606a Supplemental pupil count.**

Sec. 6a. Except as otherwise provided in this act, in addition to the pupil membership count day, there shall be a supplemental pupil count of the number of full-time equated pupils in grades K-12 actually enrolled and in regular daily attendance in a district or intermediate district on the second Wednesday in February or, for a district that is not in session on that day, the immediately preceding day on which the district is in session. For the purposes of this act, the day on which the supplemental pupil count is conducted is the supplemental count day.

**History:** Add. 1993, Act 336, Eff. Mar. 15, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1997, Act 93, Eff. Oct. 1, 1997.

**Compiler's note:** This section, as added by Act 336 of 1993, was originally compiled as § 388.1606a[1] to distinguish it from a Sec. 6a added by Act 254 of 1992, which pertained to use of alternate pupil membership count day, that was compiled as § 388.1606a prior to its repeal by enacting section 3(b) of Act 283 of 1994, Eff. Oct. 1, 1994.

**388.1606b Enrollment of nonresident pupil; counting pupil in membership; adjustment of educating district's pupil count.**

Sec. 6b. (1) A district enrolling a nonresident pupil with the approval of the pupil's district of residence may count the pupil in membership in a school year if the approval of the pupil's district of residence is received before the end of that school year.

(2) If the approval described in subsection (1) is received by the educating district at any time before the end of its school year, the department shall adjust the educating district's pupil count for the pupil membership count day or the supplemental count day of that school year, or both as necessary to ensure that the pupil is counted in membership in the educating district for those pupil counts for which the pupil was enrolled and in attendance.

**History:** Add. 1997, Act 24, Imd. Eff. June 16, 1997.

**Compiler's note:** Former § 388.1606b, which pertained to administration of alternative education, was repealed by Act 130 of 1995, Eff. Oct. 1, 1995.

**388.1606c, 388.1606d Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed sections pertained to alternative education programs and district as authorizing body for public school academy.

**388.1607 Expenditures included in costs for school operating purposes.**

Sec. 7. Costs for school operating purposes include all expenditures necessary to carry out the powers of the district or intermediate district under the revised school code.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1996, Act 300, Eff. Oct. 1, 1996.

**388.1608 Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to furnishing annual pupil dropout rate.

**388.1608a Grades K-3 average pupil count; report.**

Sec. 8a. For each of the district's school buildings that operate some or all of grades K-3, a district shall report to the department not later than December 1 of each school year the average number of pupils per class in grades K-3 in the school building.

**History:** Add. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998.

**388.1608b Public school academy district code; assignment.**

Sec. 8b. (1) The department shall assign a district code to each public school academy that is authorized under the revised school code and is eligible to receive funding under this act within 30 days after a contract is submitted to the department by the authorizing body of a public school academy.

(2) If the department does not assign a district code to a public school academy within the 30-day period described in subsection (1), the district code the department shall use to make payments under this act to the newly authorized public school academy shall be a number that is equivalent to the sum of the last district code assigned to a public school academy located in the same county as the newly authorized public school academy plus 1. However, if there is not an existing public school academy located in the same county as the newly authorized public school academy, then the district code the department shall use to make payments under this act to the newly authorized public school academy shall be a 5-digit number that has the county code in which the public school academy is located as its first 2 digits, 9 as its third digit, 0 as its fourth digit, and 1 as its fifth digit.



## THE STATE SCHOOL AID ACT OF 1979

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**History:** Add. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

### **388.1608c Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to broadband telecommunications infrastructure information.

### **388.1609 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to rules.

### **388.1610 Repealed. 1999, Act 119, Imd. Eff. July 20, 1999.**

**Compiler's note:** The repealed section pertained to disposition of funds under §§ 432.201 to 432.216 to separate account.

### **388.1611 Appropriations.**

Sec. 11. (1) For the fiscal year ending September 30, 2004, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$10,962,387,100.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of \$377,800,000.00 from the general fund. In addition, available federal funds are appropriated for each of those fiscal years.

(2) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund shall be expended to fund the purposes of this act before the expenditure of money appropriated under this section from the state school aid fund. If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount necessary to fully fund allocations under this act from the state school aid fund, that excess amount shall not be expended in that state fiscal year and shall not lapse to the general fund, but instead shall be deposited into the school aid stabilization fund created in section 11a.

(3) If the maximum amount appropriated under this section from the state school aid fund and the school aid stabilization fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under sections 11f, 11g, 22a, 31d, 51a(2), and 51c shall be made in full. In addition, for districts beginning operations after 1994-95 that qualify for payments under section 22b, payments under section 22b shall be made so that the qualifying districts receive the lesser of an amount equal to the 1994-95 foundation allowance of the district in which the district beginning operations after 1994-95 is located or \$5,500.00. The amount of the payment to be made under section 22b for these qualifying districts shall be as calculated under section 22a, with the balance of the payment under section 22b being subject to the proration otherwise provided under this subsection and subsection (4). For any proration necessary after 2002-2003, state payments under each of the other sections of this act from all state funding sources shall be prorated in the manner prescribed in subsection (4) as necessary to reflect the amount available for expenditure from the state school aid fund for the affected fiscal year. However, if the department of treasury determines that proration will be required under this subsection, the department of treasury shall notify the state budget director, and the state budget director shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the state budget director, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the state budget director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

(4) For any proration necessary after 2002-2003, the department shall calculate the proration in district and intermediate district payments that is required under subsection (3) as follows:

(a) The department shall calculate the percentage of total state school aid allocated under this act for the affected fiscal year for each of the following:

- (i) Districts.
- (ii) Intermediate districts.
- (iii) Entities other than districts or intermediate districts.

(b) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(i) for districts by reducing payments to districts. This reduction shall be made by calculating an equal dollar amount per pupil as necessary to recover this percentage of the proration amount and reducing each district's total state school aid from state sources, other than payments under sections 11f, 11g, 22a, 31d, 51a(2), 51a(12), 51c, 53a, and 56, by that amount.

## THE STATE SCHOOL AID ACT OF 1979

(c) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(ii) for intermediate districts by reducing payments to intermediate districts. This reduction shall be made by reducing the payments to each intermediate district, other than payments under sections 11f, 11g, 22a, 31d, 51a(2), 51a(12), 51c, 53a, and 56, on an equal percentage basis.

(d) The department shall recover a percentage of the proration amount required under subsection (3) that is equal to the percentage calculated under subdivision (a)(iii) for entities other than districts and intermediate districts by reducing payments to these entities. This reduction shall be made by reducing the payments to each of these entities on an equal percentage basis.

(5) Except for the allocation under section 26a, any general fund allocations under this act that are not expended by the end of the state fiscal year are transferred to the state school aid fund.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1987, Act 220, Eff. Dec. 28, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Imd. Eff. June 19, 1996;—Am. 1997, Act 24, Imd. Eff. June 16, 1997;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Imd. Eff. Aug. 11, 2003;—Am. 2003, Act 236, Imd. Eff. Dec. 29, 2003;—Am. 2004, Act 185, Imd. Eff. July 1, 2004.

**Compiler's note:** Section 2 of Act 220 of 1987 provides: "In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act is \$2,334,299,200.00 and state appropriations to be paid to local units of government are \$2,005,216,000.00."

Section 4 of Act 220 of 1987 provides: "The changes effected by this amendatory act shall be applied retroactively to October 1, 1987."

Enacting section 1 of Act 191 of 2002 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2001 PA 121 and 2000 PA 297 from state sources for fiscal year 2001-2002 is estimated at \$11,220,561,700.00 and state appropriations to be paid to local units of government for fiscal year 2001-2002 are estimated at \$11,181,789,800.00; and total state spending in this amendatory act and in 2001 PA 121 and 2000 PA 297 from state sources for fiscal year 2002-2003 is estimated at \$11,472,054,900.00 and state appropriations to be paid to local units of government for fiscal year 2002-2003 are estimated at \$11,420,969,500.00."

Enacting section 1 of Act 521 of 2002 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2002 PA 191, 2001 PA 121, and 2000 PA 297 from state sources for fiscal year 2002-2003 is estimated at \$11,490,554,900.00 and state appropriations to be paid to local units of government for fiscal year 2002-2003 are estimated at \$11,439,469,500.00. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2003-2004 is estimated at \$11,477,080,900.00 and state appropriations to be paid to local units of government for fiscal year 2003-2004 are estimated at \$11,431,369,500.00."

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

Enacting section 1 of Act 236 of 2003 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2003 PA 158 and 2002 PA 521 from state sources for fiscal year 2003-2004 is estimated at \$11,290,087,100.00 and state appropriations to be paid to local units of government for fiscal year 2003-2004 are estimated at \$11,274,332,800.00."

### **388.1611a School aid stabilization fund; deposit; expenditure; investment; money remaining at close of fiscal year; shortfall.**

Sec. 11a. (1) The school aid stabilization fund is created as a separate account within the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(2) The state treasurer may receive money or other assets from any source for deposit into the school aid stabilization fund. The state treasurer shall deposit into the school aid stabilization fund all of the following:

(a) Unexpended and unencumbered state school aid fund revenue for a fiscal year that remains in the state school aid fund as of the bookclosing for that fiscal year.

(b) Money statutorily dedicated to the school aid stabilization fund.

(c) Money appropriated to the school aid stabilization fund.

(3) Money available in the school aid stabilization fund may not be expended without a specific appropriation

## THE STATE SCHOOL AID ACT OF 1979

from the school aid stabilization fund. Money in the school aid stabilization fund shall be expended only for purposes for which state school aid fund money may be expended.

(4) The state treasurer shall direct the investment of the school aid stabilization fund. The state treasurer shall credit to the school aid stabilization fund interest and earnings from fund investments.

(5) Money in the school aid stabilization fund at the close of a fiscal year shall remain in the school aid stabilization fund and shall not lapse to the unreserved school aid fund balance or the general fund.

(6) If the maximum amount appropriated under section 11 from the state school aid fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, there is appropriated from the school aid stabilization fund to the state school aid fund an amount equal to the projected shortfall as determined by the department of treasury, but not to exceed available money in the school aid stabilization fund. If the money in the school aid stabilization fund is insufficient to fully fund an amount equal to the projected shortfall, the state budget director shall notify the legislature as required under section 11(3) and state payments in an amount equal to the remainder of the projected shortfall shall be prorated in the manner provided under section 11(4).

**History:** Add. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Former § 388.1611a, which pertained to additional appropriations, was repealed by Act 300 of 1996, Eff. Oct. 1, 1996.

### **388.1611b School aid stabilization fund; allocation for 2003-2004.**

Sec. 11b. From the general fund money appropriated in section 11, there is allocated for 2003-2004 the sum of \$67,600,000.00 for deposit into the school aid stabilization fund created in section 11a.

**History:** Add. 2003, Act 158, Eff. Oct. 1, 2003;—Am. 2003, Act 236, Imd. Eff. Dec. 29, 2003.

**Compiler's note:** Former § 388.1611b, which pertained to additional appropriations to intermediate districts for general operations, was repealed by Act 93 of 1997, Eff. Oct. 1, 1997.

Enacting section 1 of Act 236 of 2003 provides:

“Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2003 PA 158 and 2002 PA 521 from state sources for fiscal year 2003-2004 is estimated at \$11,290,087,100.00 and state appropriations to be paid to local units of government for fiscal year 2003-2004 are estimated at \$11,274,332,800.00.”

### **388.1611c School aid stabilization fund; deposit not later than December 31, 2003; conditions.**

Sec. 11c. If the unreserved general fund balance after final bookclosing for the fiscal year ending September 30, 2003 is at least \$350,000,000.00, then an amount equal to \$73,100,000.00 is appropriated from the general fund and deposited to the school aid stabilization fund not later than December 31, 2003 for the fiscal year ending September 30, 2004.

**History:** Add. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Former § 388.1611c, which pertained to additional appropriations, was repealed by Act 300 of 1996, Eff. Oct. 1, 1996.

### **388.1611d Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to carrying forward appropriation as work project.

### **388.1611e Repealed. 1999, Act 119, Imd. Eff. July 20, 1999.**

**Compiler's note:** The repealed section pertained to payments to plaintiff districts pursuant to Durant v State of Michigan.

### **388.1611f Payments to non-plaintiff districts pursuant to Durant v State of Michigan; payments for fiscal years ending September 30, 2004 through September 30, 2008; submission of waiver resolution; creation of obligation or liability; offer of settlement and compromise; payment date; use of payments; form and substance of resolution.**

Sec. 11f. (1) From the appropriations under section 11, there is allocated for the purposes of this section an amount not to exceed \$32,000,000.00 for the fiscal year ending September 30, 2004 and for each succeeding fiscal year through the fiscal year ending September 30, 2008. Payments under this section will cease after September 30, 2008. These allocations are for paying the amounts described in subsection (4) to districts and intermediate districts, other than those receiving a lump sum payment under subsection (2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district has or may have in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. The waiver resolution shall be in form and substance as required under subsection (7). The state treasurer is authorized to accept such a waiver resolution on behalf of this state. The

## THE STATE SCHOOL AID ACT OF 1979

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amounts described in this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(2) In addition to any other money appropriated under this act, there was appropriated from the state school aid fund an amount not to exceed \$1,700,000.00 for the fiscal year ending September 30, 1999. This appropriation was for paying the amounts described in this subsection to districts and intermediate districts that were not plaintiffs in the consolidated cases known as Durant v State of Michigan; that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district had or may have had in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan; and for which the total amount listed in section 11h and paid under this section was less than \$75,000.00. For a district or intermediate district qualifying for a payment under this subsection, the entire amount listed for the district or intermediate district in section 11h was paid in a lump sum on November 15, 1998 or on the next business day following that date. The amounts paid under this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(3) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in this section. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(4) The amount paid each fiscal year to each district or intermediate district under subsection (1) shall be 1/20 of the total amount listed in section 11h for each listed district or intermediate district that qualifies for a payment under subsection (1). The amounts listed in section 11h and paid in part under this subsection and in a lump sum under subsection (2) are offers of settlement and compromise to each of these districts or intermediate districts to resolve, in their entirety, any claim or claims that these districts or intermediate districts may have asserted for violations of section 29 of article IX of the state constitution of 1963 through September 30, 1997, which claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, shall not be construed to constitute an admission of liability to the districts or intermediate districts listed in section 11h or a waiver of any defense that is or would have been available to the state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(5) The entire amount of each payment under subsection (1) each fiscal year shall be paid on November 15 of the applicable fiscal year or on the next business day following that date.

(6) Funds paid to a district or intermediate district under this section shall be used only for textbooks, electronic instructional material, software, technology, infrastructure or infrastructure improvements, school buses, school security, training for technology, or to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section. For intermediate districts only, funds paid under this section may also be used for other nonrecurring instructional expenditures including, but not limited to, nonrecurring instructional expenditures for vocational education, or for debt service for acquisition of technology for academic support services. Funds received by an intermediate district under this section may be used for projects conducted for the benefit of its constituent districts at the discretion of the intermediate board. To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for that debt service.

(7) The resolution to be adopted and submitted by a district or intermediate district under this section and section 11g shall read as follows:

“Whereas, the board of \_\_\_\_\_ (name of district or intermediate district) desires to settle and compromise, in their entirety, any claim or claims that the district (or intermediate district) has or had for violations of section 29 of article IX of the state constitution of 1963, which claim or claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

Whereas, the district (or intermediate district) agrees to settle and compromise these claims for the consideration described in sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g, and in the amount specified for the district (or intermediate district) in section 11h of the state school aid act of 1979, 1979 PA 94, MCL 388.1611h.



## THE STATE SCHOOL AID ACT OF 1979

Whereas, the board of \_\_\_\_\_ (name of district or intermediate district) is authorized to adopt this resolution.

Now, therefore, be it resolved as follows:

1. The board of \_\_\_\_\_ (name of district or intermediate district) waives any right or interest it may have in any claim or potential claim through September 30, 1997 relating to the amount of funding the district or intermediate district is, or may have been, entitled to receive under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, or any other source of state funding, by reason of the application of section 29 of article IX of the state constitution of 1963, which claims or potential claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

2. The board of \_\_\_\_\_ (name of district or intermediate district) directs its secretary to submit a certified copy of this resolution to the state treasurer no later than 5 p.m. eastern standard time on March 2, 1998, and agrees that it will not take any action to amend or rescind this resolution.

3. The board of \_\_\_\_\_ (name of district or intermediate district) expressly agrees and understands that, if it takes any action to amend or rescind this resolution, the state, its agencies, employees, and agents shall have available to them any privilege, immunity, and/or defense that would otherwise have been available had the claims or potential claims been actually litigated in any forum.

4. This resolution is contingent on continued payments by the state each fiscal year as determined under sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g. However, this resolution shall be an irrevocable waiver of any claim to amounts actually received by the school district or intermediate school district under sections 11f and 11g of the state school aid act of 1979.”

**History:** Add. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

“Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1611g Payments to non-plaintiff districts pursuant to Durant v State of Michigan; payments for fiscal years ending September 30, 2003 through September 30, 2013; waiver resolution; offers of settlement and compromise; creation of obligation or liability; calculation of amount; payment date; use of funds.**

Sec. 11g. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$141,000.00 each fiscal year for the fiscal year ending September 30, 2003, for the fiscal year ending September 30, 2004, and for the fiscal year ending September 30, 2005. There is allocated an amount not to exceed \$34,200,000.00 for each succeeding fiscal year through the fiscal year ending September 30, 2013. Payments under this section will cease after September 30, 2013. These allocations are for paying the amounts described in subsection (3) to districts and intermediate districts, other than those receiving a lump sum payment under section 11f(2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a waiver resolution described in section 11f. The amounts paid under this section represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this section.

(2) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in section 11f. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district regarding these claims or potential claims.

(3) The amount paid each fiscal year to each district or intermediate district under this section shall be the sum of the following:

(a) 1/30 of the total amount listed in section 11h for the district or intermediate district.

(b) If the district or intermediate district borrows money and issues bonds under section 11i, an additional amount



## THE STATE SCHOOL AID ACT OF 1979

in each fiscal year calculated by the department of treasury that, when added to the amount described in subdivision (a), will cause the net present value as of November 15, 1998 of the total of the 15 annual payments made to the district or intermediate district under this section, discounted at a rate as determined by the state treasurer, to equal the amount of the bonds issued by that district or intermediate district under section 11i and that will result in the total payments made to all districts and intermediate districts in each fiscal year under this section being no more than the amount appropriated under this section in each fiscal year.

(4) The entire amount of each payment under this section each fiscal year shall be paid on May 15 of the applicable fiscal year or on the next business day following that date. If a district or intermediate district borrows money and issues bonds under section 11i, the district or intermediate district shall use funds received under this section to pay debt service on bonds issued under section 11i. If a district or intermediate district does not borrow money and issue bonds under section 11i, the district or intermediate district shall use funds received under this section only for the following purposes, in the following order of priority:

(a) First, to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section.

(b) Second, to pay debt service on other limited tax obligations.

(c) Third, for deposit into a sinking fund established by the district or intermediate district under the revised school code.

(5) To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for debt service.

(6) A district or intermediate district may pledge or assign payments under this section as security for bonds issued under section 11i, but shall not otherwise pledge or assign payments under this section.

**History:** Add. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Imd. Eff. Aug. 11, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1611h Amounts to districts for settlement, compromise, and resolution of claims pursuant to Durant v State of Michigan; section not to be construed as admission of liability or waiver of defense.**

Sec. 11h. (1) For the purposes of sections 11f and 11g, the following amounts are offered to each district or intermediate district to settle, compromise, and resolve, in their entirety, any claim or claims that those districts or intermediate districts may have asserted for violations of section 29 of article IX of the state constitution of 1963 through September 30, 1997, which claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492:

CODE	NAME	AMOUNT
02010	Autrain-Onota Public Schools .....	\$ 14,622
02020	Burt Township School District .....	\$ 6,744
02070	Munising Public Schools .....	\$ 185,461
02080	Superior Central School District .....	\$ 96,734
03000	Allegan Intermediate District .....	\$ 648,801
03010	Plainwell Community Schools .....	\$ 741,425
03020	Otsego Public Schools .....	\$ 540,058

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**THE STATE SCHOOL AID ACT OF 1979**

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03030	Allegan Public Schools .....	\$	926,426
03040	Wayland Union Schools .....	\$	731,677
03050	Fennville Public Schools .....	\$	579,056
03060	Martin Public Schools .....	\$	139,670
03070	Hopkins Public Schools .....	\$	255,685
03100	Hamilton Community Schools .....	\$	401,023
03440	Ganges School District #4 .....	\$	2,201
04000	Alpena-Montmorency-Alcona Intermediate .....	\$	726,402
04010	Alpena Public Schools .....	\$	1,042,911
05010	Alba Public Schools .....	\$	42,367
05035	Central Lake Public Schools .....	\$	69,082
05040	Bellaire Public Schools .....	\$	167,614
05060	Elk Rapids Schools .....	\$	357,615
05065	Ellsworth Community Schools .....	\$	21,150
05070	Mancelona Public Schools .....	\$	285,764
06010	Arenac Eastern School District .....	\$	79,078
06050	Standish Sterling School District .....	\$	317,341
07020	Baraga Township School District .....	\$	216,490
07040	L'Anse Area Schools .....	\$	263,107
08000	Barry Intermediate District .....	\$	390,738
08010	Delton-Kellogg School District .....	\$	254,518
08030	Hastings Area School District .....	\$	615,970
08050	Thornapple-Kellogg School District .....	\$	794,355
09000	Bay Arenac Intermediate District .....	\$	3,690,121
09010	Bay City School District .....	\$	2,957,596
09030	Bangor Township Schools .....	\$	690,490
09090	Pinconning Area Schools .....	\$	437,605
10015	Benzie County Central Schools .....	\$	469,507
10025	Frankfort-Elberta Area Schools .....	\$	74,090
11000	Berrien Intermediate District .....	\$	4,488,648
11010	Benton Harbor Area Schools .....	\$	1,588,343
11030	Lakeshore School District .....	\$	505,985
11160	Galien Township School District .....	\$	148,305
11200	New Buffalo Area School District .....	\$	295,255
11210	Brandywine Public School District .....	\$	430,713
11240	Berrien Springs Public School District .....	\$	1,020,853

**THE STATE SCHOOL AID ACT OF 1979**

11250	Eau Claire Public Schools .....	\$	295,326
11300	Niles Community School District .....	\$	1,886,362
11310	Buchanan Community School District .....	\$	415,327
11320	Watervliet School District .....	\$	333,411
11330	Coloma Community Schools .....	\$	518,321
11670	Hagar Township School District #6 .....	\$	3,558
12000	Branch Intermediate District .....	\$	1,591,244
12010	Coldwater Community Schools .....	\$	533,753
12020	Bronson Community School District .....	\$	100,766
12040	Quincy Community School District .....	\$	118,640
13000	Calhoun Intermediate District .....	\$	2,099,031
13010	Albion Public Schools .....	\$	682,812
13020	Battle Creek Public Schools .....	\$	4,924,981
13050	Athens Area Schools .....	\$	239,614
13070	Harper Creek Community Schools .....	\$	737,397
13080	Homer Community Schools .....	\$	243,747
13090	Lakeview School District .....	\$	672,056
13095	Mar Lee School District .....	\$	22,341
13110	Marshall Public Schools .....	\$	499,126
13120	Pennfield School District .....	\$	295,615
13130	Tekonsha Community Schools .....	\$	84,152
13135	Union City Community School District .....	\$	261,232
14000	Lewis Cass Intermediate District .....	\$	1,156,252
14010	Cassopolis Public Schools .....	\$	359,167
14020	Dowagiac Union Schools .....	\$	886,692
14030	Edwardsburg Public Schools .....	\$	278,671
14050	Marcellus Community Schools .....	\$	133,119
15000	Charlevoix Emmet Intermediate District .....	\$	2,656,494
15010	Beaver Island Community Schools .....	\$	5,291
15020	Boyne City Public School District .....	\$	340,838
15030	Boyne Falls Public School District .....	\$	46,285
15060	East Jordan Public School District .....	\$	124,290
16000	Cheboygan Otsego Presque Isle ISD .....	\$	484,651
16015	Cheboygan Area Schools .....	\$	600,684
16050	Inland Lakes School District .....	\$	121,570
16070	Mackinaw City Public Schools .....	\$	10,133

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**THE STATE SCHOOL AID ACT OF 1979**

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16100	Wolverine Community School District .....	\$	36,114
17000	Eastern Upper Peninsula ISD .....	\$	686,688
17010	Sault Ste Marie Area Schools .....	\$	1,375,408
17050	Detour Area Schools .....	\$	91,341
17090	Pickford Public Schools .....	\$	50,020
17110	Rudyard Area Schools .....	\$	167,700
17140	Brimley Area Schools .....	\$	339,116
17160	Whitefish Schools .....	\$	7,565
18000	Clare Gladwin Intermediate District .....	\$	824,976
18010	Clare Public Schools .....	\$	283,169
18020	Farwell Area Schools .....	\$	435,856
18060	Harrison Community Schools .....	\$	548,716
19000	Clinton Intermediate District .....	\$	1,408,672
19010	Dewitt Public Schools .....	\$	460,423
19070	Fowler Public Schools .....	\$	73,794
19100	Bath Community Schools .....	\$	207,492
19120	Ovid Elsie Area Schools .....	\$	421,074
19125	Pewamo Westphalia Community Schools .....	\$	123,323
19140	St. Johns Public Schools .....	\$	916,394
20015	Crawford Ausable Schools .....	\$	400,397
21000	Delta Schoolcraft Intermediate District .....	\$	751,556
21010	Escanaba Area Public Schools .....	\$	970,743
21025	Gladstone Area Schools .....	\$	394,007
21060	Rapid River Public Schools .....	\$	95,894
21065	Big Bay De Noc School District .....	\$	76,026
21090	Bark River Harris School District .....	\$	157,932
21135	Mid Peninsula School District .....	\$	70,668
22000	Dickinson-Iron Intermediate District .....	\$	886,487
22010	Iron Mountain City School District .....	\$	235,977
22025	Norway Vulcan Area Schools .....	\$	106,885
22030	Breitung Township School District .....	\$	373,341
22045	North Dickinson County School District .....	\$	108,610
23000	Eaton Intermediate District .....	\$	1,122,375
23010	Bellevue Community School District .....	\$	259,295
23030	Charlotte Public Schools .....	\$	931,778
23050	Eaton Rapids Public Schools .....	\$	933,405

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**THE STATE SCHOOL AID ACT OF 1979**

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23060	Grand Ledge Public Schools .....	\$	1,871,628
23065	Maple Valley School District .....	\$	406,606
23080	Olivet Community Schools .....	\$	273,708
23090	Pottersville Public Schools .....	\$	223,936
24020	Harbor Springs School District .....	\$	129,569
24030	Littlefield Public School District .....	\$	79,810
24040	Pellston Public School District .....	\$	87,279
24070	Petoskey Public Schools .....	\$	324,563
25000	Genesee Intermediate District .....	\$	6,300,676
25010	Flint City School District .....	\$	18,747,097
25040	Mt. Morris Consolidated Schools .....	\$	1,121,625
25060	Bendle Public Schools .....	\$	404,192
25070	Genesee School District .....	\$	231,806
25100	Fenton Area Public Schools .....	\$	1,111,528
25110	Kearsley Community Schools .....	\$	947,009
25120	Flushing Community Schools .....	\$	973,174
25130	Atherton Community School District .....	\$	299,766
25140	Davison Community Schools .....	\$	1,194,861
25150	Clio Area School District .....	\$	861,180
25180	Swartz Creek Community Schools .....	\$	1,281,780
25200	Lake Fenton Schools .....	\$	459,138
25210	Westwood Heights School District .....	\$	433,487
25230	Bentley Community School District .....	\$	416,919
25240	Beecher Community School District .....	\$	1,684,881
25250	Linden Community School District .....	\$	693,553
25260	Montrose Community Schools .....	\$	803,839
25280	Lakeville Community School District .....	\$	821,048
26010	Beaverton Rural Schools .....	\$	401,648
26040	Gladwin Community Schools .....	\$	427,002
27000	Gogebic Ontonagon Intermediate District .....	\$	558,679
27010	Bessemer City School District .....	\$	93,392
27020	Ironwood Area Schools .....	\$	358,358
27060	Marenisco School District .....	\$	13,053
27070	Wakefield Township School District .....	\$	76,782
27080	Watersmeet Township School District .....	\$	49,036
28000	Traverse Bay Intermediate District .....	\$	4,179,332



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**THE STATE SCHOOL AID ACT OF 1979**

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28010	Traverse City School District .....	\$	2,902,639
28035	Buckley Community School District .....	\$	85,755
28090	Kingsley Area School .....	\$	233,898
29000	Gratiot-Isabella RESD .....	\$	470,134
29010	Alma Public Schools .....	\$	694,386
29020	Ashley Community Schools .....	\$	74,662
29040	Breckenridge Community Schools .....	\$	304,118
29050	Fulton Schools .....	\$	149,274
29060	Ithaca Public Schools .....	\$	471,693
29100	St. Louis Public Schools .....	\$	421,142
30000	Hillsdale Intermediate District .....	\$	1,766,059
30010	Camden Frontier Schools .....	\$	87,548
30020	Hillsdale Community Public Schools .....	\$	391,242
30030	Jonesville Community Schools .....	\$	109,455
30040	Litchfield Community Schools .....	\$	167,255
30050	North Adams-Jerome Public Schools .....	\$	61,387
30060	Pittsford Area Schools .....	\$	202,030
30070	Reading Community Schools .....	\$	128,460
30080	Waldron Area Schools .....	\$	98,856
31000	Copper Country Intermediate District .....	\$	874,467
31010	Hancock Public Schools .....	\$	177,175
31020	Adams Township School District .....	\$	20,756
31030	Calumet Public Schools .....	\$	314,749
31050	Chassell Township School District .....	\$	627
31100	Osceola Township School District .....	\$	3,877
31110	Houghton-Portage Township Schools .....	\$	176,454
31130	Lake Linden Hubbell School District .....	\$	98,547
32000	Huron Intermediate District .....	\$	1,188,316
32010	Bad Axe Public Schools .....	\$	163,568
32030	Caseville Public Schools .....	\$	29,891
32060	Harbor Beach Community Schools .....	\$	129,415
32090	Owendale Gagetown Area School District .....	\$	49,577
32130	Port Hope Community Schools .....	\$	373
32170	Uby Community Schools .....	\$	103,432
33000	Ingham Intermediate District .....	\$	9,528,160
33020	Lansing Public School District .....	\$	13,878,055

**THE STATE SCHOOL AID ACT OF 1979**

33040	Dansville Agricultural School .....	\$	231,154
33060	Haslett Public Schools .....	\$	533,512
33070	Holt Public Schools .....	\$	1,436,837
33100	Leslie Public Schools .....	\$	487,249
33130	Mason Public Schools .....	\$	1,242,161
33200	Stockbridge Community Schools .....	\$	538,077
33220	Webberville Community Schools .....	\$	160,090
33230	Williamston Community Schools .....	\$	286,724
34000	Ionia Intermediate District .....	\$	889,225
34010	Ionia Public Schools .....	\$	1,442,559
34040	Palo Community School District .....	\$	22,056
34080	Belding Area School District .....	\$	590,288
34090	Lakewood Public Schools .....	\$	621,134
34110	Portland Public School District .....	\$	512,174
34120	Saranac Community Schools .....	\$	222,518
35000	Iosco Intermediate District .....	\$	746,867
35010	Oscoda Area Schools .....	\$	586,953
35020	Hale Area Schools .....	\$	117,632
35040	Whittemore Prescott Area School District .....	\$	327,352
36015	Forest Park School District .....	\$	104,179
36025	West Iron County School District .....	\$	291,224
37010	Mt. Pleasant City School District .....	\$	1,661,159
37040	Beal City School .....	\$	94,455
37060	Shepherd Public School District .....	\$	537,492
38000	Jackson Intermediate District .....	\$	5,867,626
38010	Western School District .....	\$	368,913
38020	Vandercook Lake Public Schools .....	\$	182,732
38040	Columbia School District .....	\$	272,872
38050	Grass Lake Community Schools .....	\$	112,948
38080	Concord Community Schools .....	\$	136,334
38090	East Jackson Public Schools .....	\$	262,531
38100	Hanover Horton Schools .....	\$	210,862
38120	Michigan Center School District .....	\$	254,956
38130	Napoleon Community Schools .....	\$	162,981
38140	Northwest School District .....	\$	557,439
38150	Springport Public Schools .....	\$	112,368

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**THE STATE SCHOOL AID ACT OF 1979**

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38170	Jackson Public Schools .....	\$	4,007,741
39000	Kalamazoo Valley Intermediate District .....	\$	2,294,305
39010	Kalamazoo City School District .....	\$	4,620,814
39020	Climax Scotts Community Schools .....	\$	141,525
39050	Galesburg Augusta Community Schools .....	\$	491,658
39065	Gull Lake Community Schools .....	\$	664,438
39130	Parchment School District .....	\$	413,278
39160	Schoolcraft Community Schools .....	\$	278,974
39170	Vicksburg Community Schools .....	\$	606,035
40020	Forest Area Community School District .....	\$	249,638
40040	Kalkaska Public Schools .....	\$	536,507
41000	Kent Intermediate District .....	\$	1,018,499
41010	Grand Rapids City School District .....	\$	30,052,399
41020	Godwin Heights Public Schools .....	\$	776,787
41025	Northview Public School District .....	\$	1,463,294
41026	Wyoming Public Schools .....	\$	3,510,038
41070	Cedar Springs Public Schools .....	\$	1,194,520
41080	Comstock Park Public Schools .....	\$	735,314
41120	Godfrey Lee Public School District .....	\$	625,281
41130	Grandville Public Schools .....	\$	2,285,726
41140	Kelloggsville Public Schools .....	\$	457,811
41150	Kent City Community Schools .....	\$	634,852
41170	Lowell Area School District .....	\$	1,191,193
41210	Rockford Public Schools .....	\$	1,800,045
41240	Sparta Area Schools .....	\$	1,572,479
43040	Baldwin Community Schools .....	\$	301,981
44000	Lapeer Intermediate District .....	\$	1,257,237
44010	Lapeer Community Schools .....	\$	1,606,732
44020	Almont Community Schools .....	\$	195,065
44050	Dryden Community Schools .....	\$	123,137
44060	Imlay City Community Schools .....	\$	650,688
44090	North Branch Area Schools .....	\$	361,607
45010	Glen Lake Community School District .....	\$	147,578
45020	Leland Public School District .....	\$	74,798
45040	Northport Public School District .....	\$	103,011
46000	Lenawee Intermediate District .....	\$	3,474,431

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**THE STATE SCHOOL AID ACT OF 1979**

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46010	Adrian City School District .....	\$	1,749,075
46020	Addison Community Schools .....	\$	228,919
46040	Blissfield Community Schools .....	\$	216,378
46050	Britton Macon Area School District .....	\$	48,992
46060	Clinton Community Schools .....	\$	156,385
46070	Deerfield Public Schools .....	\$	63,324
46080	Hudson Area Schools .....	\$	206,641
46090	Madison School District .....	\$	254,199
46100	Morenci Area Schools .....	\$	175,792
46110	Onsted Community Schools .....	\$	204,754
46130	Sand Creek Community Schools .....	\$	180,402
46140	Tecumseh Public Schools .....	\$	564,716
47000	Livingston Intermediate District .....	\$	3,740,653
47010	Brighton Area Schools .....	\$	1,608,320
47030	Fowlerville Community Schools .....	\$	458,044
47060	Hartland Consolidated Schools .....	\$	638,713
47070	Howell Public Schools .....	\$	1,500,542
47080	Pinckney Community Schools .....	\$	585,950
48040	Tahquamenon Area Schools .....	\$	267,875
49010	St. Ignace City School District .....	\$	199,400
49040	Les Cheneaux Community School District .....	\$	79,470
49055	Engadine Consolidated Schools .....	\$	48,728
49070	Moran Township School District .....	\$	1,018
49110	Mackinac Island Public Schools .....	\$	19,763
50000	Macomb Intermediate School .....	\$	20,272,402
50030	Roseville Community Schools .....	\$	2,720,948
50040	Anchor Bay School District .....	\$	1,402,309
50050	Armada Area Schools .....	\$	511,195
50070	Clintondale Community Schools .....	\$	1,493,807
50080	Chippewa Valley Schools .....	\$	2,743,571
50130	Lakeview Public Schools .....	\$	1,303,122
50170	New Haven Community Schools .....	\$	443,394
50180	Richmond Community Schools .....	\$	714,909
50190	Romeo Community Schools .....	\$	1,416,793
51000	Manistee Intermediate District .....	\$	805,187
51020	Bear Lake School District .....	\$	68,270

## THE STATE SCHOOL AID ACT OF 1979

51045	Kaleva Norman - Dickson Schools .....	\$	143,635
51060	Onekama Consolidated Schools .....	\$	10,726
51070	Manistee Area Public Schools .....	\$	309,900
52000	Marquette Alger Intermediate District .....	\$	931,342
52015	N.I.C.E. Community Schools .....	\$	487,900
52040	Gwinn Area Community Schools .....	\$	686,265
52090	Negaunee Public Schools .....	\$	360,838
52100	Powell Township School District .....	\$	26,655
52110	Republic Michigamme Schools .....	\$	111,822
52160	Wells Township School District .....	\$	4,936
52170	Marquette City School District .....	\$	1,176,918
52180	Ishpeming Public School District .....	\$	369,755
53000	Mason Lake Intermediate District .....	\$	1,418,466
53010	Mason County Central School District .....	\$	270,895
53020	Mason County Eastern School District .....	\$	100,000
53030	Freesoil Community School District .....	\$	28,616
53040	Ludington Area School District .....	\$	553,370
54000	Mecosta Osceola Intermediate District .....	\$	1,144,797
54010	Big Rapids Public Schools .....	\$	301,222
54025	Chippewa Hills School District .....	\$	603,473
54040	Morley Stanwood Community Schools .....	\$	298,110
55000	Menominee Intermediate District .....	\$	596,813
55010	Carney Nadeau Public Schools .....	\$	36,825
55100	Menominee Area Public Schools .....	\$	410,849
55115	North Central Area Schools .....	\$	79,050
55120	Stephenson Area Public Schools .....	\$	146,858
56000	Midland Intermediate District .....	\$	778,082
56020	Bullock Creek School District .....	\$	815,270
56030	Coleman Community School District .....	\$	405,291
56050	Meridian Public Schools .....	\$	847,821
57010	Falmouth Elementary School District .....	\$	11,423
57020	Lake City Area School District .....	\$	144,279
57030	McBain Agricultural School District .....	\$	148,767
58000	Monroe Intermediate District .....	\$	5,938,669
58020	Airport Community School District .....	\$	968,294
58030	Bedford Public School District .....	\$	814,625



# THE STATE SCHOOL AID ACT OF 1979

58050	Dundee Community Schools .....	\$	290,343
58070	Ida Public School District .....	\$	904,674
58080	Jefferson Schools-Monroe County .....	\$	1,122,705
58090	Mason Consolidated School District .....	\$	404,108
58100	Summerfield School District .....	\$	196,514
58110	Whiteford Agricultural School District .....	\$	171,481
59000	Montcalm Area Intermediate District .....	\$	2,405,905
59020	Carson City Crystal Area School District .....	\$	248,985
59045	Montabella Community School District .....	\$	235,193
59070	Greenville Public Schools .....	\$	937,756
59080	Tri County Area Schools .....	\$	309,365
59090	Lakeview Community Schools .....	\$	317,348
59125	Central Montcalm Public Schools .....	\$	488,104
59150	Vestaburg Community Schools .....	\$	142,375
60010	Atlanta Community Schools .....	\$	102,771
60020	Hillman Community Schools .....	\$	89,566
61000	Muskegon Intermediate District .....	\$	1,704,192
61010	Muskegon City School District .....	\$	7,333,232
61020	Muskegon Heights School District .....	\$	1,665,615
61060	Mona Shores School District .....	\$	924,108
61065	Oakridge Public Schools .....	\$	516,766
61080	Fruitport Community Schools .....	\$	1,340,081
61120	Holton Public Schools .....	\$	404,703
61180	Montague Area Public Schools .....	\$	353,974
61190	Orchard View Schools .....	\$	835,211
61210	Ravenna Public Schools .....	\$	289,731
61220	Reeths Puffer Schools .....	\$	1,362,629
61230	North Muskegon Public Schools .....	\$	104,428
61240	Whitehall School District .....	\$	566,527
62000	Newaygo Intermediate District .....	\$	2,002,463
62040	Fremont Public School District .....	\$	413,415
62050	Grant Public School District .....	\$	408,836
62060	Hesperia Community School District .....	\$	258,339
62070	Newaygo Public School District .....	\$	808,680
62080	Pineview School District .....	\$	6,754
62090	White Cloud Public Schools .....	\$	326,623

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**THE STATE SCHOOL AID ACT OF 1979**

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62470	Big Jackson School District .....	\$	4,683
63080	Bloomfield Hills School District .....	\$	6,277,282
63090	Clarenceville School District .....	\$	1,050,868
63110	Oxford Area Community School District .....	\$	1,064,497
63130	Hazel Park City School District .....	\$	4,502,785
63180	Brandon School District .....	\$	1,573,574
63190	Clarkston Community School District .....	\$	2,599,329
63210	Holly Area School District .....	\$	1,652,532
63250	Oak Park City School District .....	\$	2,742,617
63300	Waterford School District .....	\$	7,891,782
64000	Oceana Intermediate District .....	\$	459,987
64040	Hart Public School District .....	\$	492,658
64070	Pentwater Public School District .....	\$	50,550
64080	Shelby Public Schools .....	\$	308,687
64090	Walkerville Rural Community Schools .....	\$	178,928
65045	West Branch-Rose City Area Schools .....	\$	597,592
66045	Ewen-Trout Creek Consolidated Schools .....	\$	125,613
66050	Ontonagon Area Schools .....	\$	117,972
66070	White Pine School District .....	\$	38,434
67020	Evart Public Schools .....	\$	222,644
67050	Marion Public Schools .....	\$	120,994
67055	Pine River Area Schools .....	\$	210,897
67060	Reed City Area Public Schools .....	\$	225,449
68010	Mio Au Sable Schools .....	\$	188,436
68030	Fairview Area School District .....	\$	53,298
69020	Gaylord Community Schools .....	\$	361,967
69030	Johannesburg-Lewiston Schools .....	\$	302,444
69040	Vanderbilt Area School .....	\$	78,924
70000	Ottawa Intermediate District .....	\$	3,134,623
70040	Allendale Public School District .....	\$	304,155
70120	Coopersville Public School District .....	\$	547,307
70175	Jenison Public Schools .....	\$	1,174,903
70190	Hudsonville Public School District .....	\$	642,115
70300	Spring Lake Public School District .....	\$	654,764
71050	Onaway Area Community School District .....	\$	62,371
71060	Posen Cons School District .....	\$	89,023

**THE STATE SCHOOL AID ACT OF 1979**

71080	Rogers City Area Schools .....	\$	98,801
72000	C O O R Intermediate District .....	\$	1,535,012
72010	Gerrish Higgins School District .....	\$	315,748
73000	Saginaw Intermediate District .....	\$	3,752,177
73010	Saginaw City School District .....	\$	9,709,110
73030	Carrollton School District .....	\$	757,628
73080	Buena Vista School District .....	\$	774,237
73110	Chesaning Union Schools .....	\$	586,935
73170	Birch Run Area School District .....	\$	442,083
73180	Bridgeport-Saulding Community Schools .....	\$	947,910
73200	Freeland Community School District .....	\$	245,297
73210	Hemlock Public School District .....	\$	463,950
73230	Merrill Community School District .....	\$	313,949
73240	St. Charles Community Schools .....	\$	217,281
73255	Swan Valley School District .....	\$	404,732
74000	St. Clair Intermediate District .....	\$	2,495,753
74010	Port Huron Area School District .....	\$	5,768,925
74030	Algonac Community School District .....	\$	683,103
74040	Capac Community School District .....	\$	637,134
74100	Marysville Public School District .....	\$	541,674
74120	Memphis Community Schools .....	\$	236,433
74130	Yale Public Schools .....	\$	364,744
75000	St. Joseph Intermediate District .....	\$	1,557,997
75010	Sturgis Public School District .....	\$	667,172
75020	Burr Oak Community School District .....	\$	31,806
75030	Centreville Public Schools .....	\$	239,843
75040	Colon Community School District .....	\$	136,247
75050	Constantine Public School District .....	\$	295,041
75060	Mendon Community School District .....	\$	220,774
75070	White Pigeon Community School District .....	\$	166,233
75080	Three Rivers Community Schools .....	\$	903,838
75100	Nottawa Community School .....	\$	30,147
76000	Sanilac Intermediate District .....	\$	694,073
76060	Brown City Community School District .....	\$	174,912
76070	Carsonville-Port Sanilac School District .....	\$	93,165
76080	Croswell Lexington Community Schools .....	\$	410,871

# THE STATE SCHOOL AID ACT OF 1979

76090	Deckerville Community School District .....	\$	118,766
76140	Marlette Community Schools .....	\$	284,291
76180	Peck Community School District .....	\$	35,198
76210	Sandusky Community School District .....	\$	308,221
77010	Manistique Area Schools .....	\$	310,466
78000	Shiawassee RESD .....	\$	3,184,986
78020	Byron Area Schools .....	\$	191,551
78030	Durand Area Schools .....	\$	540,453
78040	Laingsburg Community School District .....	\$	114,818
78060	Morrice Area Schools .....	\$	85,394
78070	New Lothrop Area Public School District .....	\$	105,582
78080	Perry Public School District .....	\$	273,749
78100	Corunna Public School District .....	\$	454,571
78110	Owosso Public Schools .....	\$	885,887
79000	Tuscola Intermediate District .....	\$	1,095,027
79010	Akron Fairgrove Schools .....	\$	76,917
79020	Caro Community Schools .....	\$	476,124
79030	Cass City Public Schools .....	\$	250,135
79080	Kingston Community School District .....	\$	27,113
79090	Mayville Community School District .....	\$	267,475
79100	Millington Community Schools .....	\$	258,045
79110	Reese Public Schools .....	\$	164,035
79145	Unionville Sebawaing Area Schools .....	\$	98,025
79150	Vassar Public Schools .....	\$	271,839
80000	Van Buren Intermediate District .....	\$	3,864,085
80010	South Haven Public Schools .....	\$	619,864
80020	Bangor Public Schools .....	\$	246,071
80040	Covert Public Schools .....	\$	179,845
80050	Decatur Public Schools .....	\$	214,070
80090	Bloomington Public School District .....	\$	303,179
80110	Gobles Public School District .....	\$	145,320
80120	Hartford Public School District .....	\$	475,713
80130	Lawrence Public School District .....	\$	94,596
80140	Lawton Community School District .....	\$	190,087
80150	Mattawan Consolidated School District .....	\$	312,724
80160	Paw Paw Public School District .....	\$	301,501

## THE STATE SCHOOL AID ACT OF 1979

81000	Washtenaw Intermediate District .....	\$	2,724,063
81040	Chelsea School District .....	\$	518,995
81050	Dexter Community School District .....	\$	962,834
81070	Lincoln Consolidated School District .....	\$	1,492,337
81080	Manchester Community School District .....	\$	472,632
81100	Milan Area Schools .....	\$	572,621
81120	Saline Area School District .....	\$	1,624,108
81140	Whitmore Lake Public School District .....	\$	496,133
81150	Willow Run Community Schools .....	\$	2,071,518
82000	Wayne Intermediate District .....	\$	8,287,172
82010	Detroit City School District .....	\$	118,608,866
82040	Dearborn Heights School District #7 .....	\$	849,305
82045	Melvindale Allen Park Schools .....	\$	836,448
82050	Garden City School District .....	\$	5,839,085
82060	Hamtramck Public Schools .....	\$	1,734,517
82070	Highland Park City Schools .....	\$	1,875,555
82080	Inkster City School District .....	\$	1,252,453
82090	Lincoln Park Public Schools .....	\$	2,194,776
82110	Redford Union School District .....	\$	5,630,439
82120	River Rouge City Schools .....	\$	885,742
82130	Romulus Community Schools .....	\$	2,366,586
82150	Taylor School District .....	\$	6,396,657
82160	Wayne-Westland Community School District .....	\$	14,003,645
82170	Wyandotte City School District .....	\$	3,732,656
82180	Flat Rock Community Schools .....	\$	549,211
82240	Westwood Community Schools .....	\$	1,762,599
82250	Ecorse Public School District .....	\$	656,734
82340	Huron School District .....	\$	1,302,779
82405	Southgate Community School District .....	\$	1,037,284
82430	Van Buren Public Schools .....	\$	3,312,445
83000	Wexford Missaukee Intermediate District .....	\$	1,625,243
83010	Cadillac Area Public Schools .....	\$	468,432
83060	Manton Consolidated Schools .....	\$	118,182
83070	Mesick Consolidated School District .....	\$	88,208

(2) This section, any other provision of this act, or section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, shall not be construed to constitute an admission of liability to the districts designated in this section in any litigation or future litigation with a district or intermediate district. In addition, this section, any other

## THE STATE SCHOOL AID ACT OF 1979

provision of this act, or section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, shall not be construed to constitute a waiver of any defense that is or would have been available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

**History:** Add. 1997, Act 142, Imd. Eff. Nov. 19, 1997.

**Compiler's note:** In the above table, the entry for "Bridgeport-Saulding Community Schools" should evidently read "Bridgeport-Spaulling Community Schools."

### **388.1611i Borrowing money and issuing bonds.**

Sec. 11i. (1) In addition to any other authority granted under law, an eligible district or intermediate district may borrow from the Michigan municipal bond authority created under the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1077, an amount equal to 1/2 of the amount listed for the district or intermediate district in section 11h, in anticipation of the receipt of the payments appropriated under section 11g, and may authorize by resolution of its governing body and issue its bonds to evidence its obligations to the Michigan municipal bond authority on the terms and with those provisions as are provided by resolution of the board of the district or intermediate district and as are acceptable to the Michigan municipal bond authority if the bonds are accompanied by an opinion of bond counsel acceptable to the Michigan municipal bond authority to the effect that the interest on the bonds is excluded from gross income for federal income tax purposes. For the purposes of this section, an eligible district or intermediate district is a district or intermediate district, other than a district or intermediate district that receives a lump sum payment under section 11f(2), that qualifies to receive funds under sections 11f and 11g and that notifies the department of treasury not later than 5 p.m. eastern daylight time on June 30, 1998, in the form and manner prescribed by the department of treasury, that the district or intermediate district will borrow money and issue bonds under this section or is a district, other than a district that receives a lump sum payment under section 11f(2), that qualifies to receive funds under sections 11f and 11g, that has a membership of less than 2,000 full-time equated pupils, that has not submitted to the department of treasury a letter stating its intent not to borrow from the Michigan municipal bond authority, and that notified the department of treasury not later than 5 p.m. eastern daylight time on July 14, 1998, in the form and manner prescribed by the department of treasury, that the district will borrow money and issue bonds under this section. A district or intermediate district may pledge and assign to the Michigan municipal bond authority, as security for the bonds, all of the payments appropriated to it under section 11g but may not otherwise pledge or assign those payments. Bonds issued under this section are not subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3.

(2) Proceeds of bonds issued under this section shall be made available to districts and intermediate districts on or after November 15, 1998. Each district and intermediate district shall use proceeds of bonds issued by it under this section only for a purpose for which bonds may be issued under section 1351a of the revised school code, MCL 380.1351a.

(3) Bonds issued under this section do not constitute a general obligation or debt of a district or intermediate district within the meaning of any constitutional or statutory debt limitation.

(4) This section shall be construed as cumulative authority for the exercise of the powers granted in this section and shall not be construed to repeal any existing law. The purpose of this section is to create full and complete additional and alternate methods for the exercise of existing powers, and the powers conferred by this section are not affected or limited by any other statute or by any charter or incorporating document.

(5) A pledge made by a district or intermediate district under this section is valid and binding from the time the pledge is made. The revenue or other money pledged under this section and thereafter received by a district or intermediate district is immediately subject to the lien of the pledge without physical delivery of the revenue or money or any further act. The lien of such a pledge is valid and binding against a party having a claim of any kind in tort, contract, or otherwise against the district or intermediate district, irrespective of whether that party has notice of the pledge. The resolution or any other instrument by which a pledge is created is not required to be filed or recorded in order to establish and perfect a lien or security interest in the property pledged.

(6) Bonds issued under this section are not in any way a debt or liability of this state; do not create or constitute any indebtedness, liability, or obligation of this state; are not and do not constitute a pledge of the faith and credit of this state; and shall contain on their face a statement to that effect.

**History:** Add. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998.

### **388.1611j School loan bond redemption fund; allocation.**

Sec. 11j. From the appropriation in section 11, there is allocated an amount not to exceed \$28,300,000.00 for 2003-2004 for payments to the school loan bond redemption fund in the department of treasury.



## THE STATE SCHOOL AID ACT OF 1979

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**History:** Add. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

### **388.1611k Repealed. 2001, Act 121, Imd. Eff. Sept. 28, 2001.**

**Compiler's note:** The repealed section pertained to project grants to districts.

### **388.1612 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to aggregate unequalized revenue.

### **388.1613 Apportionments and limitations of apportionments; basis; counting pupil membership and professionals.**

Sec. 13. Except as otherwise provided in this act, the apportionments and limitations of the apportionments made under this act shall be made on the membership and number of teachers and other professionals approved by the superintendent employed as of the pupil membership count day of each year and on the taxable value and the operating millage of each district for the calendar year. In addition, a district maintaining school during the entire year, as provided in section 1561 of the revised school code, MCL 380.1561, shall count memberships and teachers pursuant to rules promulgated by the superintendent.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 95, Imd. Eff. July 13, 1993;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1999, Act 119, Imd. Eff. July 20, 1999.

### **388.1614 Defective returns; duties of department.**

Sec. 14. If the returns from an intermediate district or district upon which a statement of the amount to be disbursed or paid are defective, making it impracticable to ascertain the apportionment to be disbursed or paid, the department shall withhold the amount of the apportionment that cannot be ascertained until the department is able to ascertain by the best evidence available the facts upon which the ratio and amount of the apportionment depend, and then shall make the apportionment accordingly.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994.

### **388.1615 Apportionment of deficiency or deduction of excess in remaining apportionment; state aid overpayments to districts other than overpayments for special education; deduction due to adjustment as result of audit or incorrect payment; funding expenditures caused by write-off of prior year accruals.**

Sec. 15. (1) If a district or intermediate district fails to receive its proper apportionment, the department, upon satisfactory proof that the district or intermediate district was entitled justly, shall apportion the deficiency in the remaining apportionments. Subject to subsections (2) and (3), if a district or intermediate district has received more than its proper apportionment, the department, upon satisfactory proof, shall deduct the excess in the remaining apportionments. Notwithstanding any other provision in this act, state aid overpayments to a district, other than overpayments in payments for special education or special education transportation, may be recovered from any payment made under this act other than a special education or special education transportation payment. State aid overpayments made in special education or special education transportation payments may be recovered from subsequent special education or special education transportation payments.

(2) If the result of an audit conducted by or for the department affects the current fiscal year membership, affected payments shall be adjusted in the current fiscal year. A deduction due to an adjustment made as a result of an audit conducted by or for the department, or as a result of information obtained by the department from the district, an intermediate district, the department of treasury, or the office of auditor general, shall be deducted from the district's apportionments within the next fiscal year after the fiscal year in which the adjustment is finalized. At the request of the district and upon the district presenting evidence satisfactory to the department of the hardship, the department may grant up to an additional 4 years for the adjustment if the district would otherwise experience a significant hardship.

(3) If, because of the receipt of new or updated data, the department determines during a fiscal year that the amount paid to a district or intermediate district under this act for a prior fiscal year was incorrect under the law in effect for that year, the department may make the appropriate deduction or payment in the district's or intermediate district's allocation for the fiscal year in which the determination is made. The deduction or payment shall be calculated according to the law in effect in the fiscal year in which the improper amount was paid.

(4) Expenditures made by the department under this act that are caused by the write-off of prior year accruals

## THE STATE SCHOOL AID ACT OF 1979

may be funded by revenue from the write-off of prior year accruals.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996.

### **388.1616 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to allowance greater than actual amounts paid prohibited.

### **388.1617 Repealed. 1992, Act 148, Eff. Aug. 1, 1992.**

**Compiler's note:** The repealed section pertained to amount to be distributed in installments to districts.

### **388.1617a Withholding payment district or intermediate district entitled to receive under act; extent; plan for financing outstanding obligation defaulted upon by district or intermediate district; use of amounts withheld; agreement assigning or pledging payment; statement; "trustee of a pooled arrangement" defined.**

Sec. 17a. (1) The department may withhold all or part of any payment that a district or intermediate district is entitled to receive under this act to the extent the withholdings are a component part of a plan, developed and implemented pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or other statutory authority, for financing an outstanding obligation upon which the district or intermediate district defaulted. Amounts withheld shall be used to pay, on behalf of the district or intermediate district, unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding obligation upon which the district or intermediate district defaulted.

(2) Under an agreement entered into by a district or intermediate district assigning all or a portion of the payment that it is eligible to receive under this act to the Michigan municipal bond authority or to the trustee of a pooled arrangement or pledging the amount for payment of an obligation it incurred with the Michigan municipal bond authority or with the trustee of a pooled arrangement, the state treasurer shall transmit to the Michigan municipal bond authority or a trustee designated by the authority or to the trustee of a pooled arrangement the amount of the payment that is assigned or pledged under the agreement. Notwithstanding the payment dates prescribed by this act for distributions under this act, the state treasurer may advance all or part of a payment that is dedicated for distribution or for which the appropriation authorizing the payment has been made if and to the extent, under the terms of an agreement entered into by a district or intermediate district and the Michigan municipal bond authority, the payment that the district or intermediate district is eligible to receive has been assigned to or pledged for payment of an obligation it incurred with the Michigan municipal bond authority. This subsection does not require the state to make an appropriation to any school district or intermediate school district and shall not be construed as creating an indebtedness of the state, and any agreement made pursuant to this subsection shall contain a statement to that effect. As used in this subsection, "trustee of a pooled arrangement" means the trustee of a trust approved by the state treasurer and, subject to the conditions and requirements of that approval, established for the purpose of offering for sale, as part of a pooled arrangement, certificates representing undivided interests in notes issued by districts or intermediate districts under section 1225 of the revised school code, 1976 PA 451, MCL 380.1225. If a trustee applies to the state treasurer for approval of a trust for the purposes of this subsection, the state treasurer shall approve or disapprove the trust within 10 days after receipt of the application.

**History:** Add. 1983, Act 37, Imd. Eff. May 10, 1983;—Am. 1985, Act 142, Eff. Jan. 13, 1986;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 2002, Act 71, Imd. Eff. Mar. 15, 2002.

### **388.1617b Amounts to be distributed in installments to districts; statement; payments; warrant; adjustments; grant payments; advance release of funds.**

Sec. 17b. (1) Not later than October 20, November 20, December 20, January 20, February 20, March 20, April 20, May 20, June 20, July 20, and August 20, the department shall prepare a statement of the amount to be distributed under this act in the installment to the districts and intermediate districts and deliver the statement to the state treasurer, and the state treasurer shall pay the installments on each of those dates or, if the date is not a business day, on the immediately preceding business day before that date. Except as otherwise provided in this act, the portion of the district's or intermediate district's state fiscal year entitlement to be included in each installment shall be 1/11. A district or intermediate district shall accrue the payments received in July and August to the school fiscal year ending the immediately preceding June 30.

(2) The state treasurer shall make payment under this section by drawing a warrant in favor of the treasurer of

## THE STATE SCHOOL AID ACT OF 1979

each district or intermediate district for the amount payable to the district or intermediate district according to the statement and delivering the warrant to the treasurer of each district or intermediate district, or if the state treasurer receives a written request by the treasurer of the district or intermediate district specifying an account, by electronic funds transfer to that account of the amount payable to the district or intermediate district according to the statement. The department may make adjustments in payments made under this section through additional payments when changes in law or errors in computation cause the regularly scheduled payment to be less than the amount to which the district or intermediate district is entitled pursuant to this act.

(3) Except as otherwise specified in this act, grant payments under this act shall be paid according to subsection (1).

(4) Upon the written request of a district or intermediate district and the submission of proof satisfactory to the department of a need of a temporary and nonrecurring nature, the superintendent, with the written concurrence of the state treasurer and the state budget director, may authorize an advance release of funds due a district or intermediate district under this act. Such an advance shall not cause funds to be paid to a district or intermediate district more than 30 days earlier than the established payment date for those funds.

**History:** Add. 1992, Act 148, Eff. Aug. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

### **388.1617c Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to grant payments.

### **388.1618 Application of money received under act; determining reasonableness of expenditures; withholding apportionment for violation; audit; manuals; reports; retention of property by public school academy; failure to comply with subsections (2), (3), (4), or (5).**

Sec. 18. (1) Except as provided in another section of this act, each district or other entity shall apply the money received by the district or entity under this act to salaries and other compensation of teachers and other employees, tuition, transportation, lighting, heating, ventilation, water service, the purchase of textbooks which are designated by the board to be used in the schools under the board's charge, other supplies, and any other school operating expenditures defined in section 7. However, not more than 20% of the total amount received by a district under article 2 or intermediate district under article 8 may be transferred by the board to either the capital projects fund or to the debt retirement fund for debt service. The money shall not be applied or taken for a purpose other than as provided in this section. The department shall determine the reasonableness of expenditures and may withhold from a recipient of funds under this act the apportionment otherwise due for the fiscal year following the discovery by the department of a violation by the recipient.

(2) For the purpose of determining the reasonableness of expenditures and whether a violation of this act has occurred, the department shall require that each district and intermediate district have an audit of the district's or intermediate district's financial and pupil accounting records conducted at least annually at the expense of the district or intermediate district, as applicable, by a certified public accountant or by the intermediate district superintendent, as may be required by the department, or in the case of a district of the first class by a certified public accountant, the intermediate superintendent, or the auditor general of the city. An intermediate district's annual financial audit shall be accompanied by the intermediate district's pupil accounting procedures report. A district's or intermediate district's annual financial audit shall include an analysis of the financial and pupil accounting data used as the basis for distribution of state school aid. The pupil accounting records and reports, audits, and management letters are subject to requirements established in the auditing and accounting manuals approved and published by the department. Except as otherwise provided in this subsection, a district shall file the annual financial audit reports with the intermediate district not later than 120 days after the end of each school fiscal year and the intermediate district shall forward the annual financial audit reports for its constituent districts and for the intermediate district, and the pupil accounting procedures report for the pupil membership count day and supplemental count day, to the department not later than November 15 of each year. The annual financial audit reports and pupil accounting procedures reports shall be available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Not later than December 1 of each year, the department shall notify the state budget director and the legislative appropriations subcommittees responsible for review of the school aid budget of districts and intermediate districts that have not filed an annual financial audit and pupil accounting procedures report required under this section for the school year ending in the immediately preceding

fiscal year.

(3) By November 15 of each year, each district and intermediate district shall submit to the center, in a manner prescribed by the center, annual comprehensive financial data consistent with accounting manuals and charts of accounts approved and published by the department.

(4) By September 30 of each year, each district and intermediate district shall file with the department the special education actual cost report, known as "SE-4096", on a form and in the manner prescribed by the department.

(5) By October 7 of each year, each district and intermediate district shall file with the department the transportation expenditure report, known as "SE-4094", on a form and in the manner prescribed by the department.

(6) Not later than July 1, 1999, the department shall approve and publish pupil accounting and pupil auditing manuals. The department shall review those manuals at least annually and shall periodically update those manuals to reflect changes in this act. The pupil accounting manuals in effect for the 1996-97 school year, including subsequent revisions issued by the superintendent, shall be the interim manuals in effect until new manuals are approved and published. However, the clarification of class-by-class accounting provided in the department's April 15, 1998 memorandum on pupil accounting procedures shall be excluded from the interim manuals.

(7) If a district that is a public school academy purchases property using money received under this act, the public school academy shall retain ownership of the property unless the public school academy sells the property at fair market value.

(8) If a district or intermediate district does not comply with subsection (2), (3), (4), or (5), the department shall withhold all state school aid due to the district or intermediate district under this act, beginning with the next payment due to the district or intermediate district, until the district or intermediate district complies with subsections (2), (3), (4), and (5). If the district or intermediate district does not comply with subsections (2), (3), (4), and (5) by the end of the fiscal year, the district or intermediate district forfeits the amount withheld.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**388.1618a Grant funds to be expended by end of school year; effect of funds not expended; return of unexpended funds.**

Sec. 18a. Grant funds awarded and allotted to a district or intermediate district, unless otherwise specified in this act, shall be expended by the grant recipient before the end of the school fiscal year immediately following the fiscal year in which the funds are received. If a grant recipient does not expend the funds received under this act before the end of the fiscal year in which the funds are received, the grant recipient shall submit a report to the department not later than November 1 after the fiscal year in which the funds are received indicating whether it expects to expend those funds during the fiscal year in which the report is submitted. A recipient of a grant shall return any unexpended grant funds to the department in the manner prescribed by the department not later than September 30 after the fiscal year in which the funds are received.

**History:** Add. 1992, Act 148, Eff. Aug. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1996, Act 300, Eff. Oct. 1, 1996.

**388.1618b Property of public school academy to be transferred to this state.**

Sec. 18b. (1) Property of a public school academy that was acquired substantially with funds appropriated under this act shall be transferred to this state by the public school academy corporation if any of the following occur:

- (a) The public school academy has been ineligible to receive funding under this act for 18 consecutive months.
- (b) The public school academy's contract has been revoked.
- (c) The public school academy's contract has not been reissued by the authorizing body.

(2) Property required to be transferred to this state under this section includes title to all real and personal property, interests in real or personal property, and other assets owned by the public school academy corporation that were substantially acquired with funds appropriated under this act.

(3) The state treasurer, or his or her designee, is authorized to dispose of property transferred to this state under this section. Except as otherwise provided in this section, the state treasurer shall deposit in the state school aid fund any money included in that property and the net proceeds from the sale of the property or interests in property, after payment by the state treasurer of any public school academy debt secured by the property or interest in property.

(4) This section does not impose any liability on this state, any agency of this state, or an authorizing body for any debt incurred by a public school academy.

(5) As used in this section and section 18c, "authorizing body" means an authorizing body defined under section

501 of the revised school code, MCL 380.501.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000.

**388.1618c Contract between public school administrator and third party.**

Sec. 18c. Any contract, mortgage, loan, or other instrument of indebtedness entered into by a public school academy receiving funds under this act and a third party does not constitute an obligation, either general, special, or moral, of this state or of an authorizing body. The full faith and credit or the taxing power of this state or any agency of this state, or the full faith and credit of an authorizing body, shall not be pledged for the payment of any contract, mortgage, loan, or other instrument of indebtedness entered into by a public school academy.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000.

**388.1618d Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to claim of debt or financial obligation.

**388.1619 Compliance; information to be provided for annual progress report; report of graduation and dropout rates; educational personnel; failure to comply with certain requirements; failure to meet accreditation standards; list of schools or districts failing to make adequate yearly progress; appeal of determination; publication of list.**

Sec. 19. (1) A district shall comply with any requirements of sections 1204a, 1277, 1278, and 1280 of the revised school code, MCL 380.1204a, 380.1277, 380.1278, and 380.1280, commonly referred to as "public act 25 of 1990" that are not also required by the no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425, as determined by the department.

(2) Each district and intermediate district shall provide to the department, in a form and manner prescribed by the department, information necessary for the development of an annual progress report on the required implementation of sections 1204a, 1277, 1278, and 1280 of the revised school code, MCL 380.1204a, 380.1277, 380.1278, and 380.1280, commonly referred to as "public act 25 of 1990".

(3) A district or intermediate district shall comply with all applicable reporting requirements specified in state and federal law. Data provided to the center, in a form and manner prescribed by the center, shall be aggregated and disaggregated as required by state and federal law.

(4) Each district shall furnish to the center not later than 7 weeks after the pupil membership count day, in a manner prescribed by the center, the information necessary for the preparation of the district and high school graduation report. The center shall calculate an annual graduation and pupil dropout rate for each high school, each district, and this state, in compliance with nationally recognized standards for these calculations. The center shall report all graduation and dropout rates to the senate and house education committees and appropriations committees, the state budget director, and the department not later than June 1 of each year.

(5) A district shall furnish to the center, in a manner prescribed by the center, information related to educational personnel as necessary for reporting required by state and federal law.

(6) If a district or intermediate district fails to meet the requirements of subsection (2), (3), (4), or (5), the department shall withhold 5% of the total funds for which the district or intermediate district qualifies under this act until the district or intermediate district complies with all of those subsections. If the district or intermediate district does not comply with all of those subsections by the end of the fiscal year, the department shall place the amount withheld in an escrow account until the district or intermediate district complies with all of those subsections.

(7) If a school in a district is not accredited under section 1280 of the revised school code, MCL 380.1280, or is not making satisfactory progress toward meeting the standards for that accreditation, the department shall withhold 5% of the total funds for which the district qualifies under this act that are attributable to pupils attending that school. The department shall place the amount withheld from a district under this subsection in an escrow account and shall not release the funds to the district until the district submits to the department a plan for achieving accreditation for each of the district's schools that are not accredited under section 1280 of the revised school code, MCL 380.1280, or are not making satisfactory progress toward meeting the standards for that accreditation.

(8) Before publishing a list of schools or districts determined to have failed to make adequate yearly progress as required by the federal no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425, the department shall allow a school or district to appeal that determination. The department shall consider and act upon the appeal within 30 days after it is submitted and shall not publish the list until after all appeals have been considered and decided.

**History:** Add. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1989, Act 235, Imd. Eff. Dec. 21, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175,



## THE STATE SCHOOL AID ACT OF 1979

Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2002, Act 191, Eff. Oct. 1, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** For transfer of powers, duties, functions, and responsibilities of the department of education regarding educational reports to the center for educational performance and information by type II transfer, see E.R.O. No. 2000-6, compiled at § 388.996 of the Michigan compiled laws.

### **388.1619a—388.1619c Repealed. 1990, Act 207, Eff. Oct. 1, 1990.**

**Compiler's note:** Section 3 of Act 207 of 1990 purported to repeal §§ 388.1619a to 388.1619d. However, § 388.1619d, as added by Act 197 of 1989, did not take effect pursuant to the terms of subsection (3) of that section.

The repealed sections pertained to core curriculum, school improvement, and standards for accreditation.

## ARTICLE 2

### **388.1620 Foundation allowance per membership pupil; payments to districts, public school academies, and university schools; definitions.**

Sec. 20. (1) For 2002-2003 and for 2003-2004, the basic foundation allowance is \$6,700.00 per membership pupil.

(2) The amount of each district's foundation allowance shall be calculated as provided in this section, using a basic foundation allowance in the amount specified in subsection (1).

(3) Except as otherwise provided in this section, the amount of a district's foundation allowance shall be calculated as follows, using in all calculations the total amount of the district's foundation allowance as calculated before any proration:

(a) Except as otherwise provided in this subsection, for a district that in the immediately preceding state fiscal year had a foundation allowance in an amount at least equal to the amount of the basic foundation allowance for the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance. However, for 2002-2003, the foundation allowance for a district under this subdivision is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus \$200.00.

(b) For a district that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of the increase in the basic foundation allowance for the current state fiscal year, as compared to the immediately preceding state fiscal year, or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b. For 2002-2003, for a district that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of \$200.00 or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b.

(c) For a district that has a foundation allowance that is not a whole dollar amount, the district's foundation allowance shall be rounded up to the nearest whole dollar.

(d) For a district that received a payment under former section 22c for 2001-2002, the district's 2001-2002 foundation allowance shall be considered to have been an amount equal to the sum of the district's actual 2001-2002 foundation allowance as otherwise calculated under this section plus the per pupil amount of the district's equity payment for 2001-2002 under former section 22c.

(4) Except as otherwise provided in this subsection, the state portion of a district's foundation allowance is an amount equal to the district's foundation allowance or \$6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence



or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district described in subsection (3)(b), the state portion of the district's foundation allowance is an amount equal to \$6,962.00 plus the difference between the district's foundation allowance for the current state fiscal year and the district's foundation allowance for 1998-99, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur. The \$6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and \$5,000.00, minus \$200.00.

(5) The allocation calculated under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. However, for a pupil enrolled pursuant to section 105 or 105c in a district other than the pupil's district of residence, the allocation calculated under this section shall be based on the lesser of the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district. For a pupil in membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of residence, the allocation calculated under this section shall be based on the foundation allowance of the educating district if the educating district's foundation allowance is greater than the foundation allowance of the pupil's district of residence. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(6) Subject to subsection (7) and section 22b(3) and except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy or a university school, the allocation calculated under this section is an amount per membership pupil other than special education pupils in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil other than special education pupils for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or the sum of the basic foundation allowance under subsection (1) plus \$300.00, whichever is less. Notwithstanding section 101(2), for a public school academy that begins operations in 2002-2003 or 2003-2004, as applicable, after the pupil membership count day, the amount per membership pupil calculated under this subsection shall be adjusted by multiplying that amount per membership pupil by the number of hours of pupil instruction provided by the public school academy after it begins operations, as determined by the department, divided by the minimum number of hours of pupil instruction required under section 101(3). The result of this calculation shall not exceed the amount per membership pupil otherwise calculated under this subsection.

(7) If more than 25% of the pupils residing within a district are in membership in 1 or more public school academies located in the district, then the amount per membership pupil calculated under this section for a public school academy located in the district shall be reduced by an amount equal to the difference between the product of the taxable value per membership pupil of all property in the district that is not a principal residence or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils, in the school fiscal year ending in the current state fiscal year, calculated as if the resident pupils in membership in 1 or more public school academies located in the district were in membership in the district. In order to receive state school aid under this act, a district described in this subsection shall pay to the authorizing body that is the fiscal agent for a public school academy located in the district for forwarding to the public school academy an amount equal to that local school operating revenue per membership pupil for each

resident pupil in membership other than special education pupils in the public school academy, as determined by the department.

(8) If a district does not receive an amount calculated under subsection (9); if the number of mills the district may levy on a principal residence and qualified agricultural property under section 1211(1) of the revised school code, MCL 380.1211, is 0.5 mills or less; and if the district elects not to levy those mills, the district instead shall receive a separate supplemental amount calculated under this subsection in an amount equal to the amount the district would have received had it levied those mills, as determined by the department of treasury. A district shall not receive a separate supplemental amount calculated under this subsection for a fiscal year unless in the calendar year ending in the fiscal year the district levies 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a principal residence or qualified agricultural property.

(9) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than \$6,500.00 and that had fewer than 350 pupils in membership, if the district elects not to reduce the number of mills from which a principal residence and qualified agricultural property are exempt and not to levy school operating taxes on a principal residence and qualified agricultural property as provided in section 1211(1) of the revised school code, MCL 380.1211, and not to levy school operating taxes on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, there is calculated under this subsection for 1994-95 and each succeeding fiscal year a separate supplemental amount in an amount equal to the amount the district would have received per membership pupil had it levied school operating taxes on a principal residence and qualified agricultural property at the rate authorized for the district under section 1211(1) of the revised school code, MCL 380.1211, and levied school operating taxes on all property at the rate authorized for the district under section 1211(2) of the revised school code, MCL 380.1211, as determined by the department of treasury. If in the calendar year ending in the fiscal year a district does not levy 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a principal residence or qualified agricultural property, the amount calculated under this subsection will be reduced by the same percentage as the millage actually levied compares to the 18 mills or the number of mills levied in 1993, whichever is less.

(10) Subject to subsection (4), for a district that is formed or reconfigured after June 1, 2002 by consolidation of 2 or more districts or by annexation, the resulting district's foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district who reside in the geographic area of each of the original or affected districts.

(11) Each fraction used in making calculations under this section shall be rounded to the fourth decimal place and the dollar amount of an increase in the basic foundation allowance shall be rounded to the nearest whole dollar.

(12) State payments related to payment of the foundation allowance for a special education pupil are not calculated under this section but are instead calculated under section 51a.

(13) To assist the legislature in determining the basic foundation allowance for the subsequent state fiscal year, each revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, shall calculate a pupil membership factor, a revenue adjustment factor, and an index as follows:

(a) The pupil membership factor shall be computed by dividing the estimated membership in the school year ending in the current state fiscal year, excluding intermediate district membership, by the estimated membership for the school year ending in the subsequent state fiscal year, excluding intermediate district membership. If a consensus membership factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(b) The revenue adjustment factor shall be computed by dividing the sum of the estimated total state school aid fund revenue for the subsequent state fiscal year plus the estimated total state school aid fund revenue for the current state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund and excluding money transferred into that fund from the countercyclical budget and economic stabilization fund under section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, by the sum of the estimated total school aid fund revenue for the current state fiscal year plus the estimated total state school aid fund revenue for the immediately preceding state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. If a consensus revenue factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(c) The index shall be calculated by multiplying the pupil membership factor by the revenue adjustment factor.

However, for 2003-2004 only, the index shall be 1.00. If a consensus index is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(14) If the principals at the revenue estimating conference reach a consensus on the index described in subsection (13)(c), the basic foundation allowance for the subsequent state fiscal year shall be at least the amount of that consensus index multiplied by the basic foundation allowance specified in subsection (1).

(15) If at the January revenue estimating conference it is estimated that pupil membership, excluding intermediate district membership, for the subsequent state fiscal year will be greater than 101% of the pupil membership, excluding intermediate district membership, for the current state fiscal year, then it is the intent of the legislature that the executive budget proposal for the school aid budget for the subsequent state fiscal year include a general fund/general purpose allocation sufficient to support the membership in excess of 101% of the current year pupil membership.

(16) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than \$6,500.00, that had fewer than 7 pupils in membership in the 1993-94 state fiscal year, that has at least 1 child educated in the district in the current state fiscal year, and that levies the number of mills of school operating taxes authorized for the district under section 1211 of the revised school code, MCL 380.1211, a minimum amount of combined state and local revenue shall be calculated for the district as provided under this subsection. The minimum amount of combined state and local revenue for 1999-2000 shall be \$67,000.00 plus the district's additional expenses to educate pupils in grades 9 to 12 educated in other districts as determined and allowed by the department. The minimum amount of combined state and local revenue under this subsection, before adding the additional expenses, shall increase each fiscal year by the same percentage increase as the percentage increase in the basic foundation allowance from the immediately preceding fiscal year to the current fiscal year. The state portion of the minimum amount of combined state and local revenue under this subsection shall be calculated by subtracting from the minimum amount of combined state and local revenue under this subsection the sum of the district's local school operating revenue and an amount equal to the product of the sum of the state portion of the district's foundation allowance plus the amount calculated under section 20j times the district's membership. As used in this subsection, "additional expenses" means the district's expenses for tuition or fees, not to exceed \$6,500.00 as adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and \$5,000.00, minus \$200.00, plus a room and board stipend not to exceed \$10.00 per school day for each pupil in grades 9 to 12 educated in another district, as approved by the department.

(17) For a district in which 7.75 mills levied in 1992 for school operating purposes in the 1992-93 school year were not renewed in 1993 for school operating purposes in the 1993-94 school year, the district's combined state and local revenue per membership pupil shall be recalculated as if that millage reduction did not occur and the district's foundation allowance shall be calculated as if its 1994-95 foundation allowance had been calculated using that recalculated 1993-94 combined state and local revenue per membership pupil as a base. A district is not entitled to any retroactive payments for fiscal years before 2000-2001 due to this subsection.

(18) For a district in which an industrial facilities exemption certificate that abated taxes on property with a state equalized valuation greater than the total state equalized valuation of the district at the time the certificate was issued or \$700,000,000.00, whichever is greater, was issued under 1974 PA 198, MCL 207.551 to 207.572, before the calculation of the district's 1994-95 foundation allowance, the district's foundation allowance for 2002-2003 is an amount equal to the sum of the district's foundation allowance for 2002-2003, as otherwise calculated under this section, plus \$250.00.

(19) For a district that received a grant under former section 32e for 2001-2002, the district's foundation allowance for 2002-2003 shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of the amount of the grant award to the district for 2001-2002 under former section 32e divided by the district's membership for 2001-2002, and the district's foundation allowance for 2003-2004 shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of 100% of the amount of the grant award to the district for 2001-2002 under former section 32e divided by the district's membership for 2001-2002. Except as otherwise provided in this subsection, a district qualifying for a foundation allowance adjustment under this subsection shall use the funds resulting from this adjustment for at least 1 of grades K to 3 for purposes allowable under former section 32e as in effect for 2001-2002. For an individual school or schools operated by a district qualifying for a foundation allowance under this subsection that have been determined by the department to meet

the adequate yearly progress standards of the federal no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425, in both mathematics and English language arts at all applicable grade levels for all applicable subgroups, the district may submit to the department an application for flexibility in using the funds resulting from this adjustment that are attributable to the pupils in the school or schools. The application shall identify the affected school or schools and the affected funds and shall contain a plan for using the funds for specific purposes identified by the district that are designed to reduce class size, but that may be different from the purposes otherwise allowable under this subsection. The department shall approve the application if the department determines that the purposes identified in the plan are reasonably designed to reduce class size. If the department does not act to approve or disapprove an application within 30 days after it is submitted to the department, the application is considered to be approved. If an application for flexibility in using the funds is approved, the district may use the funds identified in the application for any purpose identified in the plan.

(20) For a district that is a qualifying school district with a school reform board in place under part 5a of the revised school code, MCL 380.371 to 380.376, the district's foundation allowance for 2002-2003 shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of \$15,000,000.00 divided by the district's membership for 2002-2003. If a district ceases to meet the requirements of this subsection, the department shall adjust the district's foundation allowance in effect at that time based on a 2002-2003 foundation allowance for the district that does not include the 2002-2003 adjustment under this subsection.

(21) Payments to districts, university schools, or public school academies shall not be made under this section. Rather, the calculations under this section shall be used to determine the amount of state payments under section 22b.

(22) If an amendment to section 2 of article VIII of the state constitution of 1963 allowing state aid to some or all nonpublic schools is approved by the voters of this state, each foundation allowance or per pupil payment calculation under this section may be reduced.

(23) As used in this section:

(a) "Combined state and local revenue" means the aggregate of the district's state school aid received by or paid on behalf of the district under this section and the district's local school operating revenue.

(b) "Combined state and local revenue per membership pupil" means the district's combined state and local revenue divided by the district's membership excluding special education pupils.

(c) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(d) "Immediately preceding state fiscal year" means the state fiscal year immediately preceding the current state fiscal year.

(e) "Local school operating revenue" means school operating taxes levied under section 1211 of the revised school code, MCL 380.1211.

(f) "Local school operating revenue per membership pupil" means a district's local school operating revenue divided by the district's membership excluding special education pupils.

(g) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(h) "Principal residence" and "qualified agricultural property" mean those terms as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(i) "School operating purposes" means the purposes included in the operation costs of the district as prescribed in sections 7 and 18.

(j) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(k) "Taxable value per membership pupil" means taxable value, as certified by the department of treasury, for the calendar year ending in the current state fiscal year divided by the district's membership excluding special education pupils for the school year ending in the current state fiscal year.

**History:** Add. 1993, Act 336, Eff. Mar. 15, 1994;—Am. 1994, Act 172, Imd. Eff. June 17, 1994;—Am. 1994, Act 283, Imd. Eff. July 12, 1994;—Am. 1994, Act 360, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 24, Imd. Eff. June 16, 1997;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 141, Eff. Jan. 1, 2004;—Am. 2003, Act 158, Imd. Eff. Aug. 11, 2003.

**Compiler's note:** The words "1/3 of" in subsection (20)(a)(i)(Q), as amended by Act 283 of 1994, were vetoed by the governor on July 9, 1994.



## THE STATE SCHOOL AID ACT OF 1979

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The last sentence of subsection (9), and subsections (18) and (19), as amended by Act 360 of 1994, were vetoed by the governor on December 22, 1994.

Subsection (11), as amended by Act 130 of 1995, was vetoed by the governor on June 30, 1995.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

Subsection (20), as amended by Act 158 of 2003, was vetoed by the governor on August 11, 2003. The text of subsection (20) set forth above in this section (MCL 388.1620) derives from Act 141 of 2003. In the veto message accompanying her veto of certain items in Enrolled House Bill 4401 (Act 158 of 2003), the governor stated, "I have vetoed amendatory language in Section 20(20) that stops the annual \$15 million supplemental payment to Detroit Public Schools at the end of fiscal year 2003. Existing language clearly indicates that this supplemental funding is intended to continue as long as the reform board remains in place. I intend to honor that commitment."

### **388.1620a Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to determination of district's combined state and local revenue per membership pupil.

### **388.1620b Repealed. 2000, Act 297, Eff. Oct. 1, 2000.**

**Compiler's note:** The repealed section pertained to allocation for 1998-99.

### **388.1620c Repealed. 1997, Act 142, Imd. Eff. Nov. 19, 1997.**

**Compiler's note:** The repealed section pertained to additional payments to districts and public school academies for 1997-98.

### **388.1620d Requirements for final determination under §§ 388.1620 and 388.1620a.**

Sec. 20d. In making the final determination required under former section 20a of a district's combined state and local revenue per membership pupil in 1993-94 and in making calculations under section 20, the department and the department of treasury shall comply with all of the following:

(a) For a district that had combined state and local revenue per membership pupil in the 1994-95 state fiscal year of \$6,500.00 or more and served as a fiscal agent for a state board designated area vocational education center in the 1993-94 school year, total state school aid received by or paid on behalf of the district pursuant to this act in 1993-94 shall exclude payments made under former section 146 and under section 147 on behalf of the district's employees who provided direct services to the area vocational education center. Not later than June 30, 1996, the department shall make an adjustment under this subdivision to the district's combined state and local revenue per membership pupil in the 1994-95 state fiscal year and the department of treasury shall make a final certification of the number of mills that may be levied by the district under section 1211 of the revised school code, MCL 380.1211, as a result of the adjustment under this subdivision.

(b) If a district had an adjustment made to its 1993-94 total state school aid that excluded payments made under former section 146 and under section 147 on behalf of the district's employees who provided direct services for intermediate district center programs operated by the district under article 5, if nonresident pupils attending the center programs were included in the district's membership for purposes of calculating the combined state and local revenue per membership pupil for 1993-94, and if there is a signed agreement by all constituent districts of the intermediate district that an adjustment under this subdivision shall be made, the foundation allowances for 1995-96 and 1996-97 of all districts that had pupils attending the intermediate district center program operated by the district that had the adjustment shall be calculated as if their combined state and local revenue per membership pupil for 1993-94 included resident pupils attending the center program and excluded nonresident pupils attending the center program.

**History:** Add. 1994, Act 360, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 130, Imd. Eff. June 30, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Imd. Eff. June 19, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997.

**Compiler's note:** Subsection (2), as amended by Act 300 of 1996, was vetoed by the governor on June 19, 1996.

Sec. 20d, as amended by Act 372 of 1996, was vetoed by the governor on July 3, 1996.

Subdivision (c), as amended by Act 93 of 1997, was vetoed by the governor on August 1, 1997.

### **388.1620e, 388.1620f Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed sections pertained to state portion of district's foundation allowance and allocation to instructional program operated by public university.

### **388.1620g Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

## THE STATE SCHOOL AID ACT OF 1979

**Compiler's note:** The repealed section pertained to additional payments for 1995-96.

### **388.1620h, 388.1620i Repealed. 1997, Act 93, Eff. Oct. 1, 1997.**

**Compiler's note:** The repealed sections pertained to payments for special education pupils for 1995-96 and funding for districts experiencing large pupil membership growth.

### **388.1620j Foundation allowance supplemental payments; amounts.**

Sec. 20j. (1) Foundation allowance supplemental payments to districts that in the 1994-95 state fiscal year had a foundation allowance greater than \$6,500.00 shall be calculated under this section.

(2) The per pupil allocation to each district under this section shall be the difference between the dollar amount of the adjustment from the 1998-99 state fiscal year to the current state fiscal year in the basic foundation allowance minus the dollar amount of the adjustment from the 1998-99 state fiscal year to the current state fiscal year in the district's foundation allowance.

(3) If a district's local revenue per pupil does not exceed the sum of its foundation allowance under section 20 plus the per pupil allocation under subsection (2), the total payment to the district calculated under this section shall be the product of the per pupil allocation under subsection (2) multiplied by the district's membership excluding special education pupils. If a district's local revenue per pupil exceeds the foundation allowance under section 20 but does not exceed the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2), the total payment to the district calculated under this section shall be the product of the difference between the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2) minus the local revenue per pupil multiplied by the district's membership excluding special education pupils. If a district's local revenue per pupil exceeds the sum of the foundation allowance under section 20 plus the per pupil allocation under subsection (2), there is no payment calculated under this section for the district.

(4) Payments to districts shall not be made under this section. Rather, the calculations under this section shall be made and used to determine the amount of state payments under section 22b.

**History:** Add. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001.

### **388.1620k Reduction in district's state school aid; determining maximum number of mills district may levy.**

Sec. 20k. If the maximum amount appropriated under section 11 from the state school aid fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year so that a district's state school aid is reduced pursuant to section 11(3), the payments calculated under section 20j and made under section 22b shall be considered to be foundation allowance payments for the purpose of determining the maximum number of mills a district may levy under section 1211(3) of the revised school code, MCL 380.1211. However, the amount to be considered a foundation allowance payment for this purpose shall not exceed the amount reduced from the district's state aid payment as a result of the implementation of section 11(3).

**History:** Add. 2003, Act 158, Imd. Eff. Aug. 11, 2003.

**Compiler's note:** Former § 388.1620k, which pertained to allocations for 2000-2001, was repealed by Act 121 of 2001, Eff. Oct. 1, 2001.

### **388.1621, 388.1621a Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to school improvement plans, annual education report, accreditation, and core curriculum; employability skills assessment programs; and allocations to districts.

### **388.1621b Tuition and fee support for pupil attending postsecondary institution.**

Sec. 21b. (1) Subject to subsections (2) and (3), a district shall use funds received under section 20 or, beginning in 2000-2001, under section 22a or 22b to support the attendance of a district pupil at an eligible postsecondary institution under the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524, or under the career and technical preparation act.

(2) To the extent required under subsection (3), a district shall pay tuition and mandatory course fees, material fees, and registration fees required by an eligible postsecondary institution for enrollment in an eligible course. A district also shall pay any late fees charged by an eligible postsecondary institution due to the district's failure to make a required payment according to the timetable prescribed by the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524, or the career and technical preparation act. A district is not required to pay transportation costs, parking costs, or activity fees.

(3) A district shall pay to the eligible postsecondary institution on behalf of an eligible student an amount equal



## THE STATE SCHOOL AID ACT OF 1979

to the lesser of the amount of the eligible charges described in subsection (2) or the prorated percentage of the state portion of the foundation allowance paid or calculated, as applicable, on behalf of that eligible student under section 20, with the proration based on the proportion of the school year that the eligible student attends the postsecondary institution. A district may pay more money to an eligible postsecondary institution on behalf of an eligible student than required under this section and the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524, or the career and technical preparation act, and may use local school operating revenue for that purpose. An eligible student is responsible for payment of the remainder of the costs associated with his or her postsecondary enrollment that exceed the amount the district is required to pay under this section and the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524, or the career and technical preparation act, and that are not paid by the district. As used in this subsection, "local school operating revenue" means that term as defined in section 20.

(4) As used in this section, "eligible course", "eligible student", and "eligible postsecondary institution" mean those terms as defined in section 3 of the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524, or in section 3 of the career and technical preparation act, as applicable.

**History:** Add. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1991, Act 200, Imd. Eff. Jan. 2, 1992;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Imd. Eff. July 12, 1994;—Am. 1996, Act 161, Eff. July 1, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

### **388.1621c Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to counting certain funds and payments for purposes of § 388.1621(5).

### **388.1621d Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to reorganization planning grant.

### **388.1621e Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to allocations to districts.

### **388.1622 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to allocations to districts.

### **388.1622a Allocations for 2003-2004; payments to districts, university schools, and public school academies; definitions.**

Sec. 22a. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$6,816,000,000.00 for 2003-2004 for payments to districts, qualifying university schools, and qualifying public school academies to guarantee each district, qualifying university school, and qualifying public school academy an amount equal to its 1994-95 total state and local per pupil revenue for school operating purposes under section 11 of article IX of the state constitution of 1963. Pursuant to section 11 of article IX of the state constitution of 1963, this guarantee does not apply to a district in a year in which the district levies a millage rate for school district operating purposes less than it levied in 1994. However, subsection (2) applies to calculating the payments under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22b and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) To ensure that a district receives an amount equal to the district's 1994-95 total state and local per pupil revenue for school operating purposes, there is allocated to each district a state portion of the district's 1994-95 foundation allowance in an amount calculated as follows:

(a) Except as otherwise provided in this subsection, the state portion of a district's 1994-95 foundation allowance is an amount equal to the district's 1994-95 foundation allowance or \$6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur.

(b) For a district that had a 1994-95 foundation allowance greater than \$6,500.00, the state payment under this subsection shall be the sum of the amount calculated under subdivision (a) plus the amount calculated under this subdivision. The amount calculated under this subdivision shall be equal to the difference between the district's 1994-95 foundation allowance minus \$6,500.00 and the current year hold harmless school operating taxes per pupil. If the result of the calculation under subdivision (a) is negative, the negative amount shall be an offset against any state payment calculated under this subdivision. If the result of a calculation under this subdivision is negative, there shall not be a state payment or a deduction under this subdivision. The taxable values per membership pupil used in the calculations under this subdivision are as adjusted by ad valorem property tax revenue captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership.

(3) For pupils in membership in a qualifying public school academy or qualifying university school, there is allocated under this section for 2003-2004 to the authorizing body that is the fiscal agent for the qualifying public school academy for forwarding to the qualifying public school academy, or to the board of the public university operating the qualifying university school, an amount equal to the 1994-95 per pupil payment to the qualifying public school academy or qualifying university school under section 20.

(4) A district, qualifying university school, or qualifying public school academy may use funds allocated under this section in conjunction with any federal funds for which the district, qualifying university school, or qualifying public school academy otherwise would be eligible.

(5) For a district that is formed or reconfigured after June 1, 2000 by consolidation of 2 or more districts or by annexation, the resulting district's 1994-95 foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the 1994-95 foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district in the state fiscal year in which the consolidation takes place who reside in the geographic area of each of the original districts. If an affected district's 1994-95 foundation allowance is less than the 1994-95 basic foundation allowance, the amount of that district's 1994-95 foundation allowance shall be considered for the purpose of calculations under this subsection to be equal to the amount of the 1994-95 basic foundation allowance.

(6) As used in this section:

(a) "1994-95 foundation allowance" means a district's 1994-95 foundation allowance calculated and certified by the department of treasury or the superintendent under former section 20a as enacted in 1993 PA 336 and as amended by 1994 PA 283.

(b) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(c) "Current year hold harmless school operating taxes per pupil" means the per pupil revenue generated by multiplying a district's 1994-95 hold harmless millage by the district's current year taxable value per membership pupil.

(d) "Hold harmless millage" means, for a district with a 1994-95 foundation allowance greater than \$6,500.00, the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property could be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, and the number of mills of school operating taxes that could be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, as certified by the department of treasury for the 1994 tax year.

(e) "Homestead" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(f) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(g) "Qualified agricultural property" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(h) "Qualifying public school academy" means a public school academy that was in operation in the 1994-95 school year and is in operation in the current state fiscal year.

(i) "Qualifying university school" means a university school that was in operation in the 1994-95 school year and is in operation in the current fiscal year.

(j) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(k) "Taxable value per membership pupil" means each of the following divided by the district's membership:

(i) For the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property may be reduced as provided in section 1211(1) of the revised school code, MCL

380.1211, the taxable value of homestead and qualified agricultural property for the calendar year ending in the current state fiscal year.

(ii) For the number of mills of school operating taxes that may be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, the taxable value of all property for the calendar year ending in the current state fiscal year.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

**388.1622b Allocations for 2003-2004; discretionary nonmandated payments; administration of standardized assessment; payments for court costs; allegation of unfunded constitutional requirement; escrowed funds as work project; use; determination; review of claim by local claims review board; removal to court of appeals; payment provisions.**

Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$2,881,000,000.00 for 2003-2004 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3) and section 11, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 20j, 51a(2), 51a(3), and 51a(12), minus the sum of the allocations to the district under sections 22a and 51c.

(3) In order to receive an allocation under this section, each district shall administer in each grade level that it operates in grades 1 to 5 a standardized assessment approved by the department of grade-appropriate basic educational skills. A district may use the Michigan literacy progress profile to satisfy this requirement for grades 1 to 3. Also, if the revised school code is amended to require annual assessments at additional grade levels, in order to receive an allocation under this section each district shall comply with that requirement.

(4) From the allocation in subsection (1), the department shall expend funds to pay for necessary costs associated with resolving matters pending in federal court impacting payments to districts, including, but not limited to, expert witness fees. Beginning in 2001-2002, from the allocation in subsection (1), the department shall also pay up to \$1,000,000.00 in litigation costs incurred by this state associated with lawsuits filed by 1 or more districts or intermediate districts against this state. If the allocation under this section is insufficient to fully fund all payments required under this section, the payments under this subsection shall be made in full before any proration of remaining payments under this section.

(5) It is the intent of the legislature that all constitutional obligations of this state have been fully funded under sections 22a, 31d, 51a, and 51c. If a claim is made by an entity receiving funds under this act that challenges the legislative determination of the adequacy of this funding or alleges that there exists an unfunded constitutional requirement, the state budget director may escrow or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the claim before making any payments to districts under subsection (2). If funds are escrowed, the escrowed funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of litigation. The work project shall be completed upon resolution of the litigation.

(6) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds under subsection (5) or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).

(7) If a claim is made in court that challenges the legislative determination of the adequacy of funding for this state's constitutional obligations or alleges that there exists an unfunded constitutional requirement, any interested party may seek an expedited review of the claim by the local claims review board. If the claim exceeds

\$10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals shall have and shall exercise jurisdiction over the claim.

(8) If payments resulting from a final determination by the local claims review board or a court of competent jurisdiction that there has been a violation of section 29 of article IX of the state constitution of 1963 exceed the amount allocated for discretionary nonmandated payments under this section, the legislature shall provide for adequate funding for this state's constitutional obligations at its next legislative session.

(9) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX medicaid funds is filed against this state during 2001-2002, 2002-2003, or 2003-2004, 50% of the amount allocated in subsection (1) not previously paid out for 2002-2003, 2003-2004, and each succeeding fiscal year is a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project shall be completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrase "and an amount not to exceed \$2,845,000,000.00 for 2002-2003" was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1622c Repealed. 2002, Act 191, Eff. Oct. 1, 2002.**

**Compiler's note:** The repealed section pertained to allocations for 2001-2002 to make equity payments to districts.

### **388.1623 Instructional program operated by public university.**

Sec. 23. (1) An instructional program operated under this section by a public university for pupils in grades K-6, 6-8, or 9-12, or a combination of those grades, may be funded under this act as a district if all of the following requirements are met:

(a) The public university has submitted an application under this section, or submitted an application to the department in a prior fiscal year under former section 23c, in the form and manner prescribed by the department. The application shall include, or have included, at least all of the following:

- (i) Identification of the proposed grade levels for which the university plans to operate an instructional program.
- (ii) Identification of the districts from which pupils would be eligible to attend the instructional program.
- (iii) A description of the process for the random selection of pupils for enrollment.
- (iv) A description of the proposed curriculum features that would be given highest priority in the instructional program.

(b) The instructional program complies with the requirements of sections 1204a, 1277, 1278, and 1280 of the revised school code, MCL 380.1204a, 380.1277, 380.1278, and 380.1280, commonly referred to as "public act 25 of 1990".

(2) An instructional program operated under this section is eligible in the same manner as a district or public school academy for all applicable categorical and federal aid.

(3) An employee of a public university employed in an instructional program operated under this section is not an employee of a school district for purposes of 1937 (Ex Sess) PA 4, MCL 38.71 to 38.191.

(4) An employee of a public university employed in an instructional program operated under this section is not eligible to be a member of the public school employees retirement system established by the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1467, unless other employees of the university are eligible for membership in that retirement system.

**History:** Add. 1994, Act 360, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997.

**Compiler's note:** Former § 388.1623, which pertained to funding districts eligible for state school aid under §§ 388.1631, 388.1636, and 388.1646, was repealed by Act 197 of 1989, Eff. Oct. 1, 1989.



## THE STATE SCHOOL AID ACT OF 1979

### **388.1623a—388.1623c Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to schools of choice, grants for "tec-choices" programs, and grants to public universities.

### **388.1623d Repealed. 1994, Act 360, Eff. June 30, 1995;—1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to alternative public school established and operated by intermediate school district.

### **388.1623e Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to prohibited funding to public school academies.

### **388.1624 Allocations for 2002-2003 and 2003-2004; payments for educating students assigned by court or family independence agency.**

Sec. 24. (1) Subject to subsection (2), from the appropriation in section 11, there is allocated each fiscal year for 2002-2003, and for 2003-2004 to the educating district or intermediate district an amount equal to 100% of the added cost each fiscal year for educating all pupils assigned by a court or the family independence agency to reside in or to attend a juvenile detention facility or child caring institution licensed by the family independence agency or the department of consumer and industry services and approved by the department to provide an on-grounds education program. The total amount to be paid under this section for added cost shall not exceed \$8,900,000.00 for 2002-2003 and \$8,000,000.00 for 2003-2004. For the purposes of this section, "added cost" shall be computed by deducting all other revenue received under this act for pupils described in this section from total costs, as approved by the department, in whole or in part, for educating those pupils in the on-grounds education program or in a program approved by the department that is located on property adjacent to a juvenile detention facility or child caring institution. Costs reimbursed by federal funds are not included. For 2003-2004 only, for an on-grounds education program or a program located on property adjacent to a juvenile detention facility or child caring institution that was not in existence at the time the allocations under this section were approved, the department shall give approval for only that portion of the educating district's or intermediate district's total costs that will not prevent the allocated amounts under this section from first being applied to 100% of the added cost of the programs that were in existence at the time the preliminary allocations under this section were approved.

(2) A district or intermediate district educating pupils described in this section at a residential child caring institution may operate, and receive funding under this section for, a department-approved on-grounds educational program for those pupils that is longer than 181 days, but not longer than 233 days, if the child caring institution was licensed as a child caring institution and offered in 1991-92 an on-grounds educational program that was longer than 181 days but not longer than 233 days and that was operated by a district or intermediate district.

(3) Special education pupils funded under section 53a shall not be funded under this section.

(4) The department shall appoint a committee to study and make recommendations concerning issues related to the education of pupils under this section, including, but not limited to, pupil counts, cost controls, and the number and type of eligible programs under this section. The committee may include, but is not limited to, appointees from 1 or more adjudicated youth educators associations, the house fiscal agency, the senate fiscal agency, the department of management and budget, the family independence agency, the department of corrections, the court system, and the department. Not later than May 15, 2004, the committee shall submit its recommendations to the house and senate appropriations subcommittees responsible for this act and to the department of management and budget.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 200, Imd. Eff. Jan. 2, 1992;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Imd. Eff. Aug. 11, 2003.

**Compiler's note:** Subsection (3) of Sec. 24, as amended by Act 128 of 1987, was vetoed by the governor on July 24, 1987. Subsection (3) of Sec. 24, as amended by Act 212 of 1986, reads as follows:

"(3) Special education pupils funded under section 53 shall not be counted under this section."

In his veto message relative to Enrolled House Bill 4572, which became Act 118 of 1991, the governor stated that "the tradition of not re-enacting annually the unchanged appropriation sections of the school aid act is constitutionally flawed. It assumes the invalid creation of a continuing appropriation. Therefore, the following sections of the school aid act and their associated allocations must be considered inoperative: 24, 55, 74, 75, 105a, 111, and 116. These sections will be treated as excluded from the current bill... "

In subsection (2), as amended by Act 297 of 2000, the last sentence "In addition, a district or intermediate district that received funds under this subsection for 1998-99 for an on-grounds educational program that is longer than 181 days but not longer than 233 days shall continue to

## THE STATE SCHOOL AID ACT OF 1979

receive funds under this section for subsequent fiscal years for that program” was vetoed by the governor July 26, 2000.

In the first and second sentences of subsection (1), as amended by Act 121 of 2001, the phrases “and for 2002-2003” and “and \$8,900,000.00 for 2002-2003” were vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

“Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1624a Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to counting pupils residing in nonoperating districts attached to operating districts.

### **388.1624b Parents or legal guardian residing in different districts; enrollment of child.**

Sec. 24b. For the purposes of this act, without regard to whether a parent or legal guardian has custody of the child, if a child's parents, or a child's parent or parents and the child's legal guardian, reside in different districts and if the child meets the applicable age requirements, the child may enroll in a district in which either of the child's parents resides, or in which the child's legal guardian resides. When a child described in this section enrolls in a district under this section, that district is the child's district of residence for the purposes of this act.

**History:** Add. 1996, Act 372, Eff. Sept. 1, 1996.

### **388.1625 Enrollment of expelled pupil enrolled in alternative education program; report; payment; information provided to department and district.**

Sec. 25. If a pupil is enrolled in an alternative education program operated by an intermediate district or district for pupils who have been expelled from school, and if the pupil is counted in membership in another intermediate district or district, the intermediate district or district operating the program shall report the enrollment information to the department and to the district in which the pupil is counted in membership, and the district in which the pupil is counted in membership shall pay to the intermediate district or district operating the program an amount equal to the amount of the foundation allowance or per pupil payment as calculated under section 20 for the district in which the pupil is counted in membership, prorated according to the number of days of the school year ending in the fiscal year the pupil is educated in the alternative education program compared to the number of days of the school year ending in the fiscal year the pupil was actually enrolled in the district in which the pupil is counted in membership. The foundation allowance or per pupil payment shall be adjusted by the pupil's full-time equated status as affected by the membership definition under section 6(4). If a district does not make the payment required under this section within 30 days after receipt of the report, the department shall calculate the amount owed, shall deduct that amount from the remaining state school aid payments to the district for that fiscal year under this act, and shall pay that amount to the intermediate district or district operating the alternative education program. The district in which the pupil is counted in membership and the intermediate district or district operating the alternative education program shall provide to the department all information the department requires to enforce this section.

**History:** Add. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

**Compiler's note:** Former § 388.1625, which pertained to allocations to districts with nonschool operating property taxes, was repealed by Act 336 of 1993, Eff. Oct. 1, 1994.

### **388.1625a Payment of amount to educating district.**

Sec. 25a. If a pupil described in section 6(6)(g) enrolls pursuant to section 6(6)(g) during a school year in a district other than the district in which the pupil is counted in membership, the educating district shall report the enrollment information to the department and to the district in which the pupil is counted in membership, and the district in which the pupil is counted in membership shall pay to the educating district an amount equal to the amount of the foundation allowance received by the district in which the pupil is counted in membership, prorated according to the number of days of the school year ending in the fiscal year the pupil is educated in the educating district compared to the number of days of the school year ending in the fiscal year the pupil was actually enrolled in the district in which the pupil is counted in membership. If a district does not make the payment required under this section within 30 days after receipt of the report, the department shall calculate the amount owed, shall deduct that amount from the remaining state school aid payments to the district for that fiscal year under this act, and shall pay that amount to the educating district. The district in which the pupil is counted in membership and the educating district shall provide to the department all information the department requires to enforce this section.



**History:** Add. 1998, Act 553, Imd. Eff. Jan. 27, 1999.

**388.1625b Applicability of section to educating district not first class; conditions; “educating district” defined.**

Sec. 25b. (1) Beginning in 2000-2001, this section applies to an educating district's enrollment of a pupil if the educating district is not a school district of the first class under the revised school code and if all of the following apply:

(a) The pupil transfers from 1 of 3 other districts specified by the educating district and enrolls in the educating district after the pupil membership count day.

(b) Due to the pupil's enrollment status as of the pupil membership count day, the pupil was counted in membership in the district from which he or she transfers.

(c) The pupil was a resident of the educating district on the pupil membership count day or met other eligibility criteria under section 6(4) or (6) to be counted in membership in the educating district if the pupil had been enrolled in the educating district on the pupil membership count day.

(d) The total number of pupils enrolled in the district who are described in subdivisions (a), (b), and (c) and who transfer from 1 of the 3 other districts specified by the educating district is at least equal to the greater of 25 or 1% of the educating district's membership.

(2) If the conditions specified in subsection (1) are met, and a pupil transfers from 1 of the 3 other specified districts described in subsection (1)(d) and enrolls during a school year in the educating district, the educating district shall report the enrollment information to the department and to the district in which the pupil is counted in membership, and the district in which the pupil is counted in membership shall pay to the educating district an amount equal to the amount of the foundation allowance or per pupil payment as calculated under section 20 for the district in which the pupil is counted in membership, prorated according to the number of days of the school year ending in the fiscal year the pupil is educated in the educating district compared to the number of days of the school year ending in the fiscal year the pupil was actually enrolled in the district in which the pupil is counted in membership. The foundation allowance or per pupil payment shall be adjusted by the pupil's full-time equated status as affected by the membership definition under section 6(4). If a district does not make the payment required under this section within 30 days after receipt of the report, the department shall calculate the amount owed, shall deduct that amount from the remaining state school aid payments to the district for that fiscal year under this act, and shall pay that amount to the educating district. The district in which the pupil is counted in membership and the educating district shall provide to the department all information the department requires to enforce this section.

(3) In determining the total amount a district owes to the educating district under this section, regardless of whether that district is otherwise eligible for payment from the educating district under this section, the district may calculate and subtract from the amount owed, using the calculation described in subsection (1), any amount applicable to pupils who transfer to that district from the educating district and meet the requirements of subsection (1)(a) to (c).

(4) As used in this section, “educating district” means the district in which a pupil enrolls after the pupil membership count day as described in subsection (1).

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001.

**388.1625c Applicability of section to educating district of first class; conditions; “educating district” defined.**

Sec. 25c. (1) Beginning in 2000-2001, this section applies to an educating district's enrollment of a pupil if the educating district is a school district of the first class under the revised school code and if all of the following apply:

(a) The pupil transfers from another district and enrolls in the educating district after the pupil membership count day.

(b) Due to the pupil's enrollment status as of the pupil membership count day, the pupil was counted in membership in the district from which he or she transfers.

(c) The pupil was a resident of the educating district on the pupil membership count day or met other eligibility criteria under section 6(4) or (6) to be counted in membership in the educating district if the pupil had been enrolled in the educating district on the pupil membership count day.

(d) The total number of pupils enrolled in the district who are described in subdivisions (a), (b), and (c) is at least equal to 25.

(2) If the conditions specified in subsection (1) are met, and a pupil transfers from another district and enrolls during a school year in the educating district, the educating district shall report the enrollment information to the

department and to the district in which the pupil is counted in membership, and the district in which the pupil is counted in membership shall pay to the educating district an amount equal to the amount of the foundation allowance or per pupil payment as calculated under section 20 for the district in which the pupil is counted in membership, prorated according to the number of days of the school year ending in the fiscal year the pupil is educated in the educating district compared to the number of days of the school year ending in the fiscal year the pupil was actually enrolled in the district in which the pupil is counted in membership. The foundation allowance or per pupil payment shall be adjusted by the pupil's full-time equated status as affected by the membership definition under section 6(4). If a district does not make the payment required under this section within 30 days after receipt of the report, the department shall calculate the amount owed, shall deduct that amount from the remaining state school aid payments to the district for that fiscal year under this act, and shall pay that amount to the educating district. The district in which the pupil is counted in membership and the educating district shall provide to the department all information the department requires to enforce this section.

(3) In determining the total amount a district owes to the educating district under this section, regardless of whether that district is otherwise eligible for payment from the educating district under this section, the district may calculate and subtract from the amount owed, using the calculation described in subsection (1), any amount applicable to pupils who transfer to that district from the educating district and meet the requirements of subsection (1)(a) to (c).

(4) As used in this section, "educating district" means the district in which a pupil enrolls after the pupil membership count day as described in subsection (1).

**History:** Add. 2001, Act 121, Imd. Eff. Sept. 28, 2001.

### **388.1626 Receipt or reduction of funds by district or intermediate district.**

Sec. 26. A district or intermediate district receiving money pursuant to 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the Brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, shall have its funds received under section 20, 56, or 62 reduced by an amount equal to the added local money.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1983, Act 25, Imd. Eff. Apr. 5, 1983;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1990, Act 355, Imd. Eff. Dec. 26, 1990;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1997, Act 93, Eff. Oct. 1, 1997.

### **388.1626a Reimbursements to districts, intermediate districts, and school aid fund pursuant to § 125.2692; adjustments.**

Sec. 26a. From the general fund appropriation in section 11, there is allocated an amount not to exceed \$29,960,000.00 for 2003-2004 to reimburse districts, intermediate districts, and the state school aid fund pursuant to section 12 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2692, for taxes levied in 2003. This reimbursement shall be made by adjusting payments under section 22a to eligible districts, adjusting payments under section 56, 62, or 81 to eligible intermediate districts, and adjusting the state school aid fund. The adjustments shall be made not later than 60 days after the department of treasury certifies to the department and to the state budget director that the department of treasury has received all necessary information to properly determine the amounts due to each eligible recipient.

**History:** Add. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Imd. Eff. Aug. 11, 2003;—Am. 2003, Act 236, Imd. Eff. Dec. 29, 2003.

**Compiler's note:** In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrase "and 2002-2003" was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

Enacting section 1 of Act 236 of 2003 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2003 PA 158 and 2002 PA 521 from state sources for fiscal year 2003-2004 is estimated at \$11,290,087,100.00 and state appropriations to

## THE STATE SCHOOL AID ACT OF 1979

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be paid to local units of government for fiscal year 2003-2004 are estimated at \$11,274,332,800.00.”

### **388.1627, 388.1628 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to allocations to districts and districts in which military air bases are closed.

### **388.1628a Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to transitional allocations to closed federal military installations.

### **388.1629 Repealed. 1993, Act 175, Eff. Oct. 1, 1993.**

**Compiler's note:** The repealed section pertained to foreign born pupils.

## ARTICLE 3

### **388.1631 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to comprehensive compensatory education programs.

### **388.1631a Funding to eligible districts and public school academies; additional allowance; number of pupils meeting criteria for free breakfast, lunch, or milk; “at-risk pupil” defined.**

Sec. 31a. (1) From the state school aid fund money appropriated in section 11, there is allocated for 2003-2004 an amount not to exceed \$314,200,000.00 for payments to eligible districts and eligible public school academies under this section. Subject to subsection (12), the amount of the additional allowance under this section shall be based on the number of actual pupils in membership in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined under the Richard B. Russell national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766a, 1769, 1769b to 1769c, and 1769f to 1769h, and reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year. However, for a public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year, the basis for the additional allowance under this section shall be the number of actual pupils in membership in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the current state fiscal year, as determined under the Richard B. Russell national school lunch act.

(2) To be eligible to receive funding under this section, other than funding under subsection (6), a district or public school academy that has not been previously determined to be eligible shall apply to the department, in a form and manner prescribed by the department, and a district or public school academy must meet all of the following:

(a) The sum of the district's or public school academy's combined state and local revenue per membership pupil in the current state fiscal year, as calculated under section 20, plus the amount of the district's per pupil allocation under section 20j(2), is less than or equal to \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and \$5,000.00, minus \$200.00.

(b) The district or public school academy agrees to use the funding only for purposes allowed under this section and to comply with the program and accountability requirements under this section.

(3) Except as otherwise provided in this subsection, an eligible district or eligible public school academy shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act and as reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year, an amount per pupil equal to 11.5% of the sum of the district's foundation allowance or public school academy's per pupil amount calculated under section 20, plus the amount of the district's per pupil allocation under section 20j(2), not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and \$5,000.00, minus \$200.00, or of the public school academy's per membership pupil amount calculated under section 20 for the current state fiscal year. A public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year shall receive under this section for each membership pupil in the public school academy who met the income eligibility criteria for free

breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act and as reported to the department by October 31 of the current fiscal year and adjusted not later than December 31 of the current fiscal year, an amount per pupil equal to 11.5% of the public school academy's per membership pupil amount calculated under section 20 for the current state fiscal year.

(4) Except as otherwise provided in this section, a district or public school academy receiving funding under this section shall use that money only to provide instructional programs and direct noninstructional services, including, but not limited to, medical or counseling services, for at-risk pupils; for school health clinics; and for the purposes of subsection (5) or (6). A district or public school academy shall not use any of that money for administrative costs or to supplant another program or other funds, except for funds allocated to the district or public school academy under this section in the immediately preceding year and already being used by the district or public school academy for at-risk pupils. The instruction or direct noninstructional services provided under this section may be conducted before or after regular school hours or by adding extra school days to the school year and may include, but are not limited to, tutorial services, early childhood programs to serve children age 0 to 5, and reading programs as described in former section 32f as in effect for 2001-2002. A tutorial method may be conducted with paraprofessionals working under the supervision of a certificated teacher. The ratio of pupils to paraprofessionals shall be between 10:1 and 15:1. Only 1 certificated teacher is required to supervise instruction using a tutorial method. As used in this subsection, "to supplant another program" means to take the place of a previously existing instructional program or direct noninstructional services funded from a funding source other than funding under this section.

(5) Except as otherwise provided in subsection (11), a district or public school academy that receives funds under this section and that operates a school breakfast program under section 1272a of the revised school code, MCL 380.1272a, shall use from the funds received under this section an amount, not to exceed \$10.00 per pupil for whom the district or public school academy receives funds under this section, necessary to operate the school breakfast program.

(6) From the funds allocated under subsection (1), there is allocated beginning with 2003-2004 an amount not to exceed \$3,743,000.00 to support teen health centers. These grants shall be awarded for 3 consecutive years beginning with 2003-2004 in a form and manner approved jointly by the department and the department of community health. Each grant recipient shall remain in compliance with the terms of the grant award or shall forfeit the grant award for the duration of the 3-year period after the noncompliance. If any funds allocated under this subsection are not used for the purposes of this subsection for the fiscal year in which they are allocated, those unused funds shall be used that fiscal year to avoid or minimize any proration that would otherwise be required under subsection (12) for that fiscal year.

(7) Each district or public school academy receiving funds under this section shall submit to the department by July 15 of each fiscal year a report, not to exceed 10 pages, on the usage by the district or public school academy of funds under this section, which report shall include at least a brief description of each program conducted by the district or public school academy using funds under this section, the amount of funds under this section allocated to each of those programs, the number of at-risk pupils eligible for free or reduced price school lunch who were served by each of those programs, and the total number of at-risk pupils served by each of those programs. If a district or public school academy does not comply with this subsection, the department shall withhold an amount equal to the August payment due under this section until the district or public school academy complies with this subsection. If the district or public school academy does not comply with this subsection by the end of the state fiscal year, the withheld funds shall be forfeited to the school aid fund.

(8) In order to receive funds under this section, a district or public school academy shall allow access for the department or the department's designee to audit all records related to the program for which it receives those funds. The district or public school academy shall reimburse the state for all disallowances found in the audit.

(9) Subject to subsections (5), (6), and (11), any district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) exceeds the district's aggregate percentage of those pupils. Subject to subsections (5), (6), and (11), if a district obtains a waiver from the department, the district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) is at least 60% of the district's aggregate percentage of those pupils and at least 30% of the total number of pupils enrolled in the school building. To obtain a waiver, a district must apply to the department and demonstrate to the satisfaction of the department that the class size reductions would be in the best interests of the district's at-risk pupils.

(10) A district or public school academy may use funds received under this section for adult high school completion, general education development (G.E.D.) test preparation, adult English as a second language, or adult basic education programs described in section 107.

(11) For an individual school or schools operated by a district or public school academy receiving funds under this section that have been determined by the department to meet the adequate yearly progress standards of the federal no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425, in both mathematics and English language arts at all applicable grade levels for all applicable subgroups, the district or public school academy may submit to the department an application for flexibility in using the funds received under this section that are attributable to the pupils in the school or schools. The application shall identify the affected school or schools and the affected funds and shall contain a plan for using the funds for specific purposes identified by the district that are designed to benefit at-risk pupils in the school, but that may be different from the purposes otherwise allowable under this section. The department shall approve the application if the department determines that the purposes identified in the plan are reasonably designed to benefit at-risk pupils in the school. If the department does not act to approve or disapprove an application within 30 days after it is submitted to the department, the application is considered to be approved. If an application for flexibility in using the funds is approved, the district may use the funds identified in the application for any purpose identified in the plan.

(12) If necessary, and before any proration required under section 11, the department shall prorate payments under this section by reducing the amount of the per pupil payment under this section by a dollar amount calculated by determining the amount by which the amount necessary to fully fund the requirements of this section exceeds the maximum amount allocated under this section and then dividing that amount by the total statewide number of pupils who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding fiscal year, as described in subsection (1).

(13) If a district is formed by consolidation after June 1, 1995, and if 1 or more of the original districts was not eligible before the consolidation for an additional allowance under this section, the amount of the additional allowance under this section for the consolidated district shall be based on the number of pupils described in subsection (1) enrolled in the consolidated district who reside in the territory of an original district that was eligible before the consolidation for an additional allowance under this section.

(14) A district or public school academy that does not meet the eligibility requirement under subsection (2)(a) is eligible for funding under this section if at least 1/4 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1), and at least 4,500 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1). A district or public school academy that is eligible for funding under this section because the district meets the requirements of this subsection shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding fiscal year, as determined and reported as described in subsection (1), an amount per pupil equal to 11.5% of the sum of the district's foundation allowance or public school academy's per pupil allocation under section 20, plus the amount of the district's per pupil allocation under section 20j(2), not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and \$5,000.00, minus \$200.00.

(15) As used in this section, "at-risk pupil" means a pupil for whom the district has documentation that the pupil meets at least 2 of the following criteria: is a victim of child abuse or neglect; is below grade level in English language and communication skills or mathematics; is a pregnant teenager or teenage parent; is eligible for a federal free or reduced-price lunch subsidy; has atypical behavior or attendance patterns; or has a family history of school failure, incarceration, or substance abuse. For pupils for whom the results of at least the applicable Michigan education assessment program (MEAP) test have been received, at-risk pupil also includes a pupil who does not meet the other criteria under this subsection but who did not achieve at least a score of moderate on the most recent MEAP reading test for which results for the pupil have been received, did not achieve at least a score of moderate on the most recent MEAP mathematics test for which results for the pupil have been received, or did not achieve at least a score of novice on the most recent MEAP science test for which results for the pupil have been received. For pupils in grades K-3, at-risk pupil also includes a pupil who is at risk of not meeting the district's core academic curricular objectives in English language, communication skills, or mathematics.

**History:** Add. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Imd. Eff. July 12, 1994;—Am. 1994, Act 360, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am.



## THE STATE SCHOOL AID ACT OF 1979

1997, Act 24, Imd. Eff. June 16, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrase “and for 2002-2003 an amount not to exceed \$319,095,200.00” was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

“Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1631c Repealed. 2000, Act 297, Eff. Oct. 1, 2000.**

**Compiler's note:** The repealed section pertained to pilot program grants.

### **388.1631d Reimbursement to districts providing school lunch programs.**

Sec. 31d. (1) From the appropriations in section 11, there is allocated an amount not to exceed \$18,315,000.00 for 2002-2003 and an amount not to exceed \$21,300,000.00 for 2003-2004 for the purpose of making payments to districts and other eligible entities under this section.

(2) The amounts allocated from state sources under this section shall be used to pay the amount necessary to reimburse districts for 6.0127% of the necessary costs of the state mandated portion of the school lunch programs provided by those districts. The amount due to each district under this section shall be computed by the department using the methods of calculation adopted by the Michigan supreme court in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

(3) The payments made under this section include all state payments made to districts so that each district receives at least 6.0127% of the necessary costs of operating the state mandated portion of the school lunch program in a fiscal year.

(4) The payments made under this section to districts and other eligible entities that are not required under section 1272a of the revised school code, MCL 380.1272a, to provide a school lunch program shall be in an amount not to exceed \$10.00 per pupil plus 5 cents for each free lunch and 2 cents for each reduced price lunch provided, as determined by the department.

(5) From the federal funds appropriated in section 11, there is allocated for 2003-2004 all available federal funding, estimated at \$272,125,000.00, for the national school lunch program and all available federal funding, estimated at \$2,506,000.00, for the emergency food assistance program.

(6) Notwithstanding section 17b, payments to eligible entities other than districts under this section shall be paid on a schedule determined by the department.

**History:** Add. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Imd. Eff. Aug. 11, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

“Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1631e Reimbursement for cost of providing breakfast.**

Sec. 31e. From the appropriations in section 11, there is allocated an amount not to exceed \$2,430,000.00 for 2002-2003 for the purpose of making payments to districts to reimburse for the cost of providing breakfast. The funds appropriated under this section shall be made available to all eligible applicant districts as determined under section 702 of 2002 PA 522.

**History:** Add. 2003, Act 158, Imd. Eff. Aug. 11, 2003.

### **388.1632 Repealed. 2000, Act 297, Eff. Oct. 1, 2000.**

**Compiler's note:** The repealed section pertained to pilot reading improvement programs.



**388.1632a Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to funding for all students achieve program.

**388.1632b Programs to improve school readiness and positive parenting skills, enhance parent-child interaction, promote growth, and access community services; grants; data collection system; office for safe schools; duties of department and superintendent; use of funds; carrying over unexpended funds.**

Sec. 32b. (1) From the state school aid fund allocation in section 32a(1), there is allocated an amount not to exceed \$45,000,000.00 for 2001-2002 and \$0.00 for 2002-2003 and 2003-2004 for grants to intermediate districts and districts for programs for preschool children and their parents. The purpose of these programs is to improve school readiness and foster the maintenance of stable families by encouraging positive parenting skills; enhancing parent-child interaction; providing learning opportunities to promote intellectual, physical, and social growth; and promoting access to needed community services through a community-school-home partnership that provides parents with information on child development from birth to age 5.

(2) To qualify for funding under this section, a program shall meet all of the following:

(a) The program must provide services to all families with children age 5 or younger residing within the intermediate district or district who choose to participate, including at least all of the following services:

(i) Home visits by parent educators trained in child development to help parents understand appropriate expectations for each stage of their child's development, to encourage learning opportunities, and to promote strong parent-child relationships.

(ii) Group meetings of participating families.

(iii) Periodic developmental screening of the child's overall development, health, hearing, and vision.

(iv) A community resource network that provides referrals to other state, local, and private agencies as appropriate to assist parents in preparing their children for academic success and to foster the maintenance of stable families.

(v) Connection with quality preschool programs.

(b) The program must be a collaborative community effort that includes at least the intermediate district or district, local multipurpose collaborative bodies, local health and welfare agencies, and private nonprofit agencies involved in programs and services for preschool children and their parents.

(3) To compete for a grant under this section, an intermediate district or district shall apply to the superintendent not later than December 1, 2000 in the form and manner prescribed by the superintendent. To be considered for a grant under this section, a grant application must provide all of the following in a manner prescribed by the department:

(a) Provide a plan for the delivery of the program components described in subsection (2).

(b) Demonstrate an adequate collaboration of local entities involved in providing programs and services for preschool children and their parents.

(c) Provide evidence of a review and approval by the local multipurpose collaborative body of the program plan.

(d) Provide a projected budget for the program to be funded. The intermediate district shall provide at least a 20% local match from local public or private resources for the funds received under this section. Not more than 1/2 of this matching requirement, up to a total of 10% of the total project budget, may be satisfied through in-kind services provided by participating providers of programs or services. In addition, not more than 10% of the grant may be used for program administration.

(4) Each successful grant recipient shall agree to include a data collection system and an evaluation tool approved by the department to measure the impact of the program on improving school readiness, reducing the number of children needing special education programs and services, and fostering the maintenance of stable families. The data collection system shall provide a report by October 15 of each year on the number of children in families with income below 200% of the federal poverty level that received services under this program and the total number of children who received services under this program.

(5) From the general fund allocation under section 32a(1), there is allocated an amount not to exceed \$100.00 for 2001-2002 and \$0.00 for 2002-2003 and 2003-2004 to the department, including the office for safe schools, for implementation and evaluation of activities under this section. Further, upon receipt of the federal drug-free schools grant, the department shall allocate \$200,000.00 of that grant to the office for safe schools within the department.

(6) The department and superintendent shall do all of the following:

(a) The department shall make applications available for the purposes of this section not later than October 15, 2000.

(b) The superintendent shall approve or disapprove applications and notify the applying intermediate district or district of that decision not later than February 1, 2001. Priority in awarding grants shall be given to programs that focus on reducing the percentage of children needing special education programs and services when they enter school. The superintendent shall ensure that the intermediate districts and districts receiving grants under this section are geographically and economically diverse and that not more than 10% of the total allocation under this section is paid to any 1 particular intermediate district or district.

(c) The department shall ensure that all programs funded under this section utilize the most current validated research-based methods and curriculum for providing the program components described in subsection (2).

(d) The department shall submit a report to the legislature, the state budget director, and the senate and house fiscal agencies detailing the evaluations described in subsection (4) by December 1 of each year.

(7) Except as otherwise provided in subsection (8), an intermediate district or district receiving funds under this section shall use the funds only for the program funded under this section. Subject to subsection (8), grants awarded by February 1, 2001 may be used for the following school year.

(8) A district or intermediate district receiving funds under this section may carry over any unexpended funds received under this section to subsequent fiscal years and may expend those unused funds in subsequent fiscal years. Notwithstanding any other provision of this section, funds carried over under this subsection may be used to facilitate programs that are substantially similar in purpose to those funded under this section.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1632c Grants for community-based collaborative prevention services; distribution of funds through joint request for proposals process; requirements; agreement.**

Sec. 32c. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$250,000.00 for 2003-2004 to the department for grants for community-based collaborative prevention services designed to foster positive parenting skills; improve parent/child interaction, especially for children 0-3 years of age; promote access to needed community services; increase local capacity to serve families at risk; improve school readiness; and support healthy family environments that discourage alcohol, tobacco, and other drug use. The allocation under this section is to fund secondary prevention programs as defined by the children's trust fund for the prevention of child abuse and neglect.

(2) The funds allocated under subsection (1) shall be distributed through a joint request for proposals process established by the department in conjunction with the children's trust fund and the state's interagency systems reform workgroup. Projects funded with grants awarded under this section shall meet all of the following:

(a) Be secondary prevention initiatives and voluntary to consumers. This appropriation is not intended to serve the needs of children for whom and families in which neglect or abuse has been substantiated.

(b) Demonstrate that the planned services are part of a community's integrated comprehensive family support strategy endorsed by the local multi-purpose collaborative body.

(c) Provide a 25% local match, of which not more than 10% may be in-kind services, unless this requirement is waived by the interagency systems reform workgroup.

(3) Notwithstanding section 17b, payments under this section may be made pursuant to an agreement with the department.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

**388.1632d School readiness or preschool and parenting program grants; evaluation; contract; report; “employment status” defined.**

Sec. 32d. (1) From the state school aid fund money appropriated under section 11, there is allocated an amount not to exceed \$72,600,000.00 for 2003-2004 for school readiness or preschool and parenting program grants to enable eligible districts, as determined under section 37, to develop or expand, in conjunction with whatever federal funds may be available, including, but not limited to, federal funds under title I of the elementary and secondary education act of 1965, Public Law 89-10, 108 Stat. 3519, 20 U.S.C. 6301 to 6304, 6311 to 6339, 6361 to 6368, 6371 to 6376, 6381 to 6383, 6391 to 6399, 6421 to 6472, 6491 to 6494, 6511 to 6518, 6531 to 6537, 6551 to 6561i, and 6571 to 6578, chapter 1 of title I of the Hawkins-Stafford elementary and secondary school improvement amendments of 1988, Public Law 89-10, 102 Stat. 140, and the head start act, subchapter B of chapter 8 of subtitle A of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9831 to 9835, 9836 to 9844, 9846, and 9848 to 9852, comprehensive compensatory programs designed to do 1 or both of the following:

(a) Improve the readiness and subsequent achievement of educationally disadvantaged children as defined by the department who will be at least 4, but less than 5 years of age, as of December 1 of the school year in which the programs are offered, and who show evidence of 2 or more risk factors as defined in the state board report entitled “children at risk” that was adopted by the state board on April 5, 1988.

(b) Provide preschool and parenting education programs similar to those under former section 32b as in effect for 2001-2002.

(2) A comprehensive compensatory program funded under this section may include an age-appropriate educational curriculum, nutritional services, health screening for participating children, a plan for parent and legal guardian involvement, and provision of referral services for families eligible for community social services.

(3) In addition to the allocation under subsection (1), from the general fund money allocated under section 11, there is allocated an amount not to exceed \$200,000.00 for 2003-2004 for the purposes of subsection (4).

(4) From the general fund allocation in subsection (3), there is allocated for 2003-2004 an amount not to exceed \$200,000.00 for a competitive grant to continue a longitudinal evaluation of children who have participated in the Michigan school readiness program.

(5) A district receiving a grant under this section may contract for the provision of the comprehensive compensatory program and retain for administrative services an amount equal to not more than 5% of the grant amount.

(6) A grant recipient receiving funds under this section shall report to the department no later than October 15 of each year the number of children participating in the program who meet the income or other eligibility criteria specified under section 37(3)(g) and the total number of children participating in the program. For children participating in the program who meet the income or other eligibility criteria specified under section 37(3)(g), grant recipients shall also report whether or not a parent is available to provide care based on employment status. For the purposes of this subsection, “employment status” shall be defined by the family independence agency in a manner consistent with maximizing the amount of spending that may be claimed for temporary assistance for needy families maintenance of effort purposes.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** In the first and last sentences of subsection (1), as amended by Act 121 of 2001, the phrases “and 2002-2003” and “and for 2002-2003” were vetoed by the governor September 28, 2001.

In subsection (2), as amended by Act 121 of 2001, the phrase “and 2002-2003” was vetoed by the governor September 28, 2001. Enacting section 3 of Act 521 of 2002 provides:

“Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

**388.1632e Repealed. 2002, Act 191, Eff. Oct. 1, 2002.**

**Compiler's note:** The repealed section pertained to program grants to maintain or establish small classes in grades K to 3.

**388.1632f Allocations under § 388.1632a(1); purpose; eligibility criteria; application form and manner; availability of matching funds; grant award decision; priority; report; payment schedule; carrying forward excess amount.**

Sec. 32f. (1) From the state school aid fund allocation under section 32a(1), there is allocated for 2001-2002 an

## THE STATE SCHOOL AID ACT OF 1979

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amount not to exceed \$45,000,000.00 and for 2002-2003 and 2003-2004 \$0.00, for grants under this section. From the general fund allocation under section 32a(1), there is allocated each fiscal year for 2001-2002, 2002-2003, and 2003-2004 \$0.00 for the purposes of subsection (3).

(2) From the allocation in subsection (1), there is allocated for 2001-2002 an amount not to exceed \$2,000,000.00 and for 2002-2003 and 2003-2004 \$0.00, for providing grants to the 8 regional literacy centers for the purposes of expanding training programs for trainers and teachers in the use of strategies for reading instruction and assessment, including the Michigan literacy progress profile.

(3) From the general fund allocation in subsection (1), there is allocated to the department \$0.00 each fiscal year for 2001-2002, 2002-2003, and 2003-2004 for the development and dissemination of read, educate, and develop youth (READY) kits to parents of preschool and kindergarten children to provide these parents with information about how they can prepare their children for reading success.

(4) From the general fund allocation in subsection (1), there is allocated to the department each fiscal year for 2001-2002, 2002-2003, and 2003-2004 \$0.00 for the grant review process and grant administration under this section.

(5) Except as otherwise provided in subsection (17), to be eligible for a grant under this section, a district must have had at least 1,500 pupils in membership in 1998-99, and the number of pupils in the district that have been determined to have a specific learning disability according to R 340.1713 of the Michigan administrative code, as determined in the December 1, 1998 head count required under the individuals with disabilities education act, title VI of Public Law 91-230, must equal or exceed 5% of the district's membership. In addition, a district is eligible for a grant under this section if the district had at least 1,500 pupils in membership in 1998-99 and if not more than 41% of the district's pupils who took the spring 1999 fourth grade MEAP reading test achieved a score of at least satisfactory. Except as otherwise provided in subsection (17), for a public school academy to be eligible for a grant under this section, the public school academy must be located in a district that is eligible under this subsection.

(6) From the allocation in subsection (1), there is allocated for 2001-2002 an amount not to exceed \$43,000,000.00 and for 2002-2003 and 2003-2004 \$0.00, for competitive grants to eligible districts, to intermediate districts, and to public school academies located within eligible districts for reading improvements programs for pupils in grades K to 4, reading disorders and reading methods programs, mentoring programs, language and literacy outreach programs, or cognitive development programs. For 2001-2002, grants under this subsection shall be paid to grant recipients in the same proportion of the total allocation under this subsection as for 2000-2001. If the legislature enacts legislation authorizing the appropriation of federal funds for reading improvement programs for 2001-2002, for 2002-2003, or for 2003-2004, then it is the intent of the legislature that these funds be used to the extent possible for the purposes of this subsection. Federal funds received for reading improvement programs that can be used for substantially similar purposes as described under this section shall be first expended for the purposes of this subsection before funds appropriated from the state school aid fund allocated under this subsection, and the expenditure of funds under this subsection from the state school aid fund shall be reduced by an amount equal to the amount of the expenditure of federal funds under this subsection. If any conflict exists between federal reading program guidelines and this section, federal law will control.

(7) Except as otherwise provided in subsection (17), to qualify for funding under this section, a proposed reading improvement program must meet all of the following:

(a) The program shall include assessment of reading skills of pupils in grades K to 4 to identify those pupils who are reading below grade level and must provide special reading assistance for these pupils.

(b) The program shall be a research-based, validated, structured reading program.

(c) The program shall include continuous assessment of pupils and individualized education plans for pupils.

(d) The program shall align learning resources to state standards.

(e) For each school building receiving funding under this section for a reading improvement program, the program shall serve at least 25% of pupils who are identified as at-risk, as determined by the Michigan literacy progress profile, of reading failure, and the amount of the grant shall not exceed \$85,000.00 per school building annually.

(8) Funds allocated for programs described in subsection (7) may be used to reimburse grant recipients for funds paid by districts for up to 1/2 of the salaries and benefits for each teacher trained and certified to provide a reading improvement program.

(9) Except as otherwise provided under subsection (17), to qualify for funding under this section, a proposed mentoring program must be a research-based, validated program or a statewide 1-to-1 mentoring program to enhance the independence and life quality of pupils who are mentally impaired by providing opportunities for mentoring and integrated employment.



(10) Except as otherwise provided under subsection (17), to qualify for funding under this section, a proposed cognitive development program must be a research-based, validated educational service program, focused on assessing and building essential cognitive and perceptual learning abilities to strengthen pupil concentration and learning.

(11) Except as otherwise provided under subsection (17), to qualify for funding under this section, a proposed structured mentoring-tutorial reading program for preschool to grade 4 pupils must be a research-based, validated program that develops individualized instructional plans based on each pupil's age, assessed needs, reading level, interests, and learning style.

(12) A program receiving funding under this section may be conducted outside of regular school hours or outside the regular school calendar.

(13) To compete for a grant under this section, an applicant shall apply to the superintendent in the form and manner prescribed by the superintendent. The department shall make applications available for this purpose. An applicant shall include in its application a projected budget for the programs. The grant recipient shall provide at least a 20% local match from local public or private resources for the funds received under this section. Not more than 1/2 of this matching requirement, up to a total of 10% of the total project budget, may be satisfied through in-kind services provided by participating providers of programs or services. In addition, not more than 10% of the grant may be used for program administration.

(14) The superintendent shall approve or disapprove applications and notify the applicant of that decision. Priority in awarding grants shall be given to programs that focus on accelerating student achievement on a cost-effective basis, reducing the number of pupils requiring special education programs and services, and improving pupil scores on standardized tests and assessments.

(15) A grant recipient receiving funds under this section shall report to the department, in the form and manner prescribed by the department, on the results achieved by the program. At a minimum, the grant recipient shall report to the department by October 15 regarding the program's impact on reducing the number of pupils requiring special education programs and services and on improving pupil scores on standardized tests and assessments, and information on the costs and benefits per unit of pupil improvement. In addition, the report shall state the number of pupils eligible for free or reduced price school lunch who received services under the program and the total number of pupils who received services under the program. Not later than November 15 of each fiscal year, the department shall submit a report to the legislature, the state budget director, and the senate and house fiscal agencies detailing the results of the programs. It is the intent of the legislature that further funding for the programs under this section will reflect the results achieved in these programs.

(16) Notwithstanding section 17b, payments under this section shall be paid on a schedule determined by the department.

(17) For a district or public school academy awarded a grant under former section 32, the determination of whether the district or public school academy is eligible for a grant under this section may be made according to the eligibility standards in effect under former section 32. Further, the district or public school academy may continue to use the grant proceeds for any use permissible under this section or former section 32 as in effect at the time the district or public school academy was awarded the grant.

(18) If the maximum amount appropriated under this section exceeds the amount necessary to fully fund allocations under this section, that excess amount shall not be expended in that state fiscal year but shall instead be carried forward to the succeeding fiscal year and added to any funds appropriated for that fiscal year for expenditure in that fiscal year.

(19) A district that received funding for 1999-2000 under former section 32 shall receive funding under this section for 2001-2002.

(20) A district or intermediate district receiving funds under this section may carry over any unexpended funds received under this section to subsequent fiscal years and may expend those unused funds in subsequent fiscal years.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2000, Act 388, Imd. Eff. Jan. 3, 2001;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002.

**Compiler's note:** Subsection (2), as added by Act 297 of 2000, was vetoed by the governor July 26, 2000.

In the first sentence of subsection (4), as added by Act 297 of 2000, the words "each fiscal year" and ", for 2001-2002, and for 2002-2003" were vetoed by the governor July 26, 2000.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit



## THE STATE SCHOOL AID ACT OF 1979

into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1632g, 388.1632h Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.**

**Compiler's note:** The repealed sections pertained to summer school instruction and counseling services.

### **388.1632i Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to May 2002 revenue estimating conference.

### **388.1632j Programs for parents with preschool children.**

Sec. 32j. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$3,326,000.00 for 2003-2004 for grants to intermediate districts to provide programs for parents with preschool children. The purpose of these programs is to improve school readiness and foster the maintenance of stable families by encouraging positive parenting skills.

(2) To qualify for funding under this section, a program shall provide services to all families with children age 5 or younger residing within the intermediate district who choose to participate, including at least all of the following services:

(a) Providing parents with information on child development from birth to age 5.

(b) Providing parents with methods to enhance parent-child interaction; including, but not limited to, encouraging parents to read to their preschool children at least 1/2 hour per day.

(c) Providing parents with examples of learning opportunities to promote intellectual, physical, and social growth of preschoolers.

(d) Promoting access to needed community services through a community-school-home partnership.

(3) To compete for a grant under this section, an intermediate district shall apply to the department not later than October 1, 2003 in the form and manner prescribed by the department. To be considered for a grant under this section, a grant application shall do all of the following in a manner prescribed by the department:

(a) Provide a plan for the delivery of the program components described in subsection (2).

(b) Demonstrate an adequate collaboration of local entities involved in providing programs and services for preschool children and their parents.

(c) Provide a projected budget for the program to be funded. The intermediate district shall provide at least a 20% local match from local public or private resources for the funds received under this section. Not more than 1/2 of this matching requirement, up to a total of 10% of the total project budget, may be satisfied through in-kind services provided by participating providers of programs or services. In addition, not more than 10% of the grant may be used for program administration.

(4) Each successful grant recipient shall agree to include a data collection system and an evaluation tool approved by the department to measure the impact of the program on improving school readiness and fostering the maintenance of stable families. The data collection system shall provide a report by October 15 of each year on the number of children in families with income below 200% of the federal poverty level that received services under this program and the total number of children who received services under this program.

(5) The department shall do all of the following:

(a) The department shall make applications available for the purposes of this section not later than August 15, 2003.

(b) The superintendent shall approve or disapprove applications and notify the applying intermediate district of that decision not later than November 15, 2003. The amount of each approved grant shall not exceed 3.5% of the intermediate district's 2002-2003 payment under section 81.

(c) The department shall ensure that all programs funded under this section utilize the most current validated research-based methods and curriculum for providing the program components described in subsection (2).

(d) The department shall submit a report to the state budget director and the senate and house fiscal agencies detailing the evaluations described in subsection (4) by December 1 of each year.

(6) An intermediate district receiving funds under this section shall use the funds only for the program funded under this section. An intermediate district receiving funds under this section may carry over any unexpended funds received under this section to subsequent fiscal years and may expend those unused funds in subsequent fiscal years.

**History:** Add. 2003, Act 158, Eff. Oct. 1, 2003.

**388.1633 Repealed. 2002, Act 191, Eff. Oct. 1, 2002.**

**Compiler's note:** The repealed section pertained to school district as subject to intervention.

**388.1634, 388.1634a Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to low-income eligibility counts and achievement incentive grants.

**388.1635 Repealed. 2001, Act 121, Imd. Eff. Sept. 28, 2001.**

**Compiler's note:** The repealed section pertained to family opportunity project.

**388.1636, 388.1636a Repealed. 2000, Act 297, Eff. Oct. 1, 2000.**

**Compiler's note:** The repealed sections pertained to comprehensive compensatory programs to improve readiness and achievement of educationally disadvantaged children, and grants for community based collaborative prevention services.

**388.1637 Eligibility of district for allocation under § 388.1632d; preapplication; final application; consortium; submission of resolution showing certain risk factors.**

Sec. 37. (1) A district is eligible for an allocation under section 32d if the district meets all of the requirements in subsections (2), (3), and (4).

(2) The district shall submit a preapplication, in a manner and on forms prescribed by the department, by a date specified by the department in the immediately preceding state fiscal year. The preapplication shall include a comprehensive needs assessment and community collaboration plan, and shall identify all of the following:

(a) The estimated total number of children in the community who meet the criteria of section 32d and how that calculation was made.

(b) The estimated number of children in the community who meet the criteria of section 32d and are being served by other early childhood development programs operating in the community, and how that calculation was made.

(c) The number of children the district will be able to serve who meet the criteria of section 32d including a verification of physical facility and staff resources capacity.

(d) The estimated number of children who meet the criteria of section 32d who will remain unserved after the district and community early childhood programs have met their funded enrollments. The school district shall maintain a waiting list of identified unserved eligible children who would be served when openings are available.

(3) The district shall submit a final application for approval, in a manner and on forms prescribed by the department, by a date specified by the department. The final application shall indicate all of the following that apply:

(a) The district complies with the state board approved standards of quality and curriculum guidelines for early childhood programs for 4-year-olds.

(b) The district provides for the active and continuous participation of parents or guardians of the children in the program, and describes the district's participation plan as part of the application.

(c) The district only employs for this program the following:

(i) Teachers possessing proper training, including, but not limited to, a valid teaching certificate and an early childhood (ZA) endorsement. This provision does not apply to a district that subcontracts with an eligible child development program. In that situation a teacher must have a valid teaching certificate and may have a child development associate credential (CDA) instead of an early childhood (ZA) endorsement.

(ii) Paraprofessionals possessing proper training in early childhood development or who have completed at least 1 course in an appropriate training program, including, but not limited to, a child development associate credential (CDA) or associate degree in child development or other similar program, as approved by the department.

(d) The district has submitted for approval a program budget that includes only those costs not reimbursed or reimbursable by federal funding, that are clearly and directly attributable to the early childhood readiness program, and that would not be incurred if the program were not being offered. If children other than those determined to be educationally disadvantaged participate in the program, state reimbursement under section 32d shall be limited to the portion of approved costs attributable to educationally disadvantaged children.

(e) The district has established a school readiness advisory committee consisting of, at a minimum, classroom teachers for prekindergarten, kindergarten, and first grade; parents or guardians of program participants; representatives from appropriate community agencies and organizations; the district curriculum director or equivalent administrator; and, if feasible, a school psychologist, school social worker, or school counselor. In addition, there shall be on the committee at least 1 parent or guardian of a program participant for every 18 children enrolled in the program, with a minimum of 2 parent or guardian representatives. The committee shall do all of the

following:

(i) Ensure the ongoing articulation of the early childhood, kindergarten, and first grade programs offered by the district.

(ii) Review the mechanisms and criteria used to determine participation in the early childhood program.

(iii) Review the health screening program for all participants.

(iv) Review the nutritional services provided to program participants.

(v) Review the mechanisms in place for the referral of families to community social service agencies, as appropriate.

(vi) Review the collaboration with and the involvement of appropriate community, volunteer, and social service agencies and organizations in addressing all aspects of educational disadvantage.

(vii) Review, evaluate, and make recommendations to a local school readiness program or programs for changes to the school readiness program.

(f) The district has submitted for departmental approval a plan to conduct and report annual school readiness program evaluations using criteria approved by the department. At a minimum, the evaluations shall include assessment of the gains in educational readiness and progress through first grade of children participating in the school readiness program.

(g) More than 50% of the children participating in the program meet the income eligibility criteria for free or reduced price lunch, as determined under the Richard B. Russell national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766a, 1769, 1769b to 1769c, and 1769f to 1769h, or meet the income and all other eligibility criteria for the family independence agency unified child day care program.

(4) A consortium of 2 or more districts shall be eligible for an allocation under section 32d if the districts designate a single fiscal agent for the allocation. A district or intermediate district may administer a consortium described in this subsection. A consortium shall submit a single preapplication and application for the children to be served, regardless of the number of districts participating in the consortium.

(5) With the final application, an applicant district shall submit to the department a resolution adopted by its board certifying the number of 4-year-old children who show evidence of risk factors as described in section 32d who meet the income eligibility criteria for free or reduced price lunch or the income and all other eligibility criteria for the family independence agency unified child day care program, and who will participate in a school readiness program funded under section 32d.

**History:** Add. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1989, Act 235, Imd. Eff. Dec. 21, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002.

### **388.1637a Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to conditions in which requirements of § 388.1637(h) are considered met.

### **388.1638 Number of prekindergarten children in need of special readiness assistance; calculation.**

Sec. 38. The maximum number of prekindergarten children construed to be in need of special readiness assistance under section 32d shall be calculated for each district in the following manner: one-half of the percentage of the district's pupils in grades 1-5 who are eligible for free lunch, as determined by the district's October count in the school year 2 years before the fiscal year for which the calculation is made under the Richard B. Russell national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766a, 1769, 1769b to 1769c, and 1769f to 1769h, as reported to the department not later than December 31 of the fiscal year 2 years before the fiscal year for which the calculation is made, shall be multiplied by the average kindergarten enrollment of the district on the pupil membership count day of the 2 immediately preceding years.

**History:** Add. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1987, Act 220, Eff. Dec. 28, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Section 2 of Act 220 of 1987 provides: "In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act is \$2,334,299,200.00 and state appropriations to be paid to local units of government are \$2,005,216,000.00."

Section 4 of Act 220 of 1987 provides: "The changes effected by this amendatory act shall be applied retroactively to October 1, 1987."

**388.1639 Tentative allocation to eligible district under § 388.1632d; priority in funding; contingency; supplementary day care; district with 315 or more eligible pupils; additional eligible children.**

Sec. 39. (1) The tentative allocation for each fiscal year to each eligible district under section 32d shall be determined by multiplying the number of children determined in section 38 or the number of children the district indicates it will be able to serve under section 37(2)(c), whichever is less, by \$3,300.00 and shall be distributed among districts in decreasing order of concentration of eligible children as determined by section 38 until the money allocated in section 32d is distributed.

(2) A district that has not less than 50 eligible children shall receive priority over other eligible districts other than those districts funded under subsection (3).

(3) A district that received funds under this section in at least 1 of the 2 immediately preceding fiscal years shall receive priority in funding over other eligible districts. However, funding beyond 3 state fiscal years is contingent upon the availability of funds and documented evidence satisfactory to the department of compliance with all operational, fiscal, administrative, and other program requirements.

(4) A district that offers supplementary day care funded by funds other than those received under this section and therefore offers full-day programs as part of its early childhood development program shall receive priority in the allocation of funds under this section over other eligible districts other than those districts funded under subsection (3).

(5) For any district with 315 or more eligible pupils, the number of eligible pupils shall be 65% of the number calculated under section 38. However, none of these districts may have less than 315 pupils for purposes of calculating the tentative allocation under section 32d.

(6) If, taking into account the total amount to be allocated to the district as calculated under this section, a district determines that it is able to include additional eligible children in the school readiness program without additional funds under this section, the district may include additional eligible children but shall not receive additional funding under this section for those children.

**History:** Add. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1987, Act 220, Eff. Dec. 28, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1988, Act 509, Imd. Eff. Dec. 29, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1989, Act 235, Imd. Eff. Dec. 21, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002.

**Compiler's note:** Section 2 of Act 220 of 1987 provides: "In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act is \$2,334,299,200.00 and state appropriations to be paid to local units of government are \$2,005,216,000.00."

Section 4 of Act 220 of 1987 provides: "The changes effected by this amendatory act shall be applied retroactively to October 1, 1987."

**388.1639a Allocation of federal funds; definitions.**

Sec. 39a. (1) From the appropriation in section 11, there is allocated for 2003-2004 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at \$665,458,500.00, for the federal programs under the no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425. These funds are allocated for each fiscal year as follows:

(a) An amount estimated at \$1,666,300.00 for community service state grants, funded from DED-OESE, community service state grant funds.

(b) An amount estimated at \$15,946,200.00 to provide students with drug- and violence-prevention programs and to implement strategies to improve school safety, funded from DED-OESE, drug-free schools and communities funds.

(c) An amount estimated at \$14,546,300.00 for the purpose of improving teaching and learning through a more effective use of technology, funded from DED-OESE, educational technology state grant funds.

(d) An amount estimated at \$105,570,600.00 for the purpose of preparing, training, and recruiting high-quality teachers and class size reduction, funded from DED-OESE, improving teacher quality funds.

(e) An amount estimated at \$4,647,700.00 for programs to teach English to limited English proficient (LEP) children, funded from DED-OESE, language acquisition state grant funds.

(f) An amount estimated at \$8,550,000.00 for the Michigan charter school subgrant program, funded from DED-OESE, charter school funds.

(g) An amount estimated at \$247,600.00 for Michigan model partnership for character education programs, funded from DED-OESE, title X, fund for improvement of education funds.

## THE STATE SCHOOL AID ACT OF 1979

(h) An amount estimated at \$2,010,100.00 for rural and low income schools, funded from DED-OESE, rural and low income school funds.

(i) An amount estimated at \$11,123,700.00 to help schools develop and implement comprehensive school reform programs, funded from DED-OESE, title I and title X, comprehensive school reform funds.

(j) An amount estimated at \$427,000,000.00 to provide supplemental programs to enable educationally disadvantaged children to meet challenging academic standards, funded from DED-OESE, title I, disadvantaged children funds.

(k) An amount estimated at \$8,246,600.00 for the purpose of providing unified family literacy programs, funded from DED-OESE, title I, even start funds.

(l) An amount estimated at \$8,953,100.00 for the purpose of identifying and serving migrant children, funded from DED-OESE, title I, migrant education funds.

(m) An amount estimated at \$22,779,000.00 to promote high-quality school reading instruction for grades K-3, funded from DED-OESE, title I, reading first state grant funds.

(n) An amount estimated at \$13,475,000.00 for the purpose of implementing innovative strategies for improving student achievement, funded from DED-OESE, title VI, innovative strategies funds.

(o) An amount estimated at \$20,696,300.00 for the purpose of providing high-quality extended learning opportunities, after school and during the summer, for children in low-performing schools, funded from DED-OESE, twenty-first century community learning center funds.

(2) From the federal funds appropriation in section 11, there is allocated for 2003-2004 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at \$5,421,800.00 each fiscal year, for the following programs that are funded by federal grants:

(a) An amount estimated at \$600,000.00 for acquired immunodeficiency syndrome education grants, funded from HHS-center for disease control, AIDS funding.

(b) An amount estimated at \$1,553,500.00 for emergency services to immigrants, funded from DED-OBEMLA, emergency immigrant education assistance funds.

(c) An amount estimated at \$1,468,300.00 to provide services to homeless children and youth, funded from DED-OVAE, homeless children and youth funds.

(d) An amount estimated at \$1,000,000.00 for refugee children school impact grants, funded from HHS-ACF, refugee children school impact funds.

(e) An amount estimated at \$800,000.00 for serve America grants, funded from the corporation for national and community service funds.

(3) All federal funds allocated under this section shall be distributed in accordance with federal law and with flexibility provisions outlined in Public Law 107-116, 115 Stat. 2177 and in the education flexibility partnership act of 1999, Public Law 106-25, 113 Stat. 41. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(4) As used in this section:

(a) "DED" means the United States department of education.

(b) "DED-OBEMLA" means the DED office of bilingual education and minority languages affairs.

(c) "DED-OESE" means the DED office of elementary and secondary education.

(d) "DED-OVAE" means the DED office of vocational and adult education.

(e) "HHS" means the United States department of health and human services.

(f) "HHS-ACF" means the HHS administration for children and families.

**History:** Add. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

## ARTICLE 4



**388.1640 Children in need of special readiness assistance; alternative methods of determining number; review; report.**

Sec. 40. The department biennially shall review alternative methods to determine the number of children construed to be in need of special readiness assistance and shall report not later than November 15 of each even-numbered year its findings and recommendations to the senate and house appropriations subcommittees responsible for district funding and the senate and house committees responsible for education legislation and the state budget director.

**History:** Add. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

**388.1641 Instruction for pupils of limited English-speaking ability; allocation; reimbursement; use of funds.**

Sec. 41. From the appropriation in section 11, there is allocated an amount not to exceed \$2,800,000.00 for 2003-2004 to applicant districts and intermediate districts offering programs of instruction for pupils of limited English-speaking ability under section 1153 of the revised school code, MCL 380.1153. Reimbursement shall be on a per pupil basis and shall be based on the number of pupils of limited English-speaking ability in membership on the pupil membership count day. Funds allocated under this section shall be used solely for instruction in speaking, reading, writing, or comprehension of English. A pupil shall not be counted under this section or instructed in a program under this section for more than 3 years.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1981, Act 113, Eff. Oct. 1, 1981;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 220, Eff. Dec. 28, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Section 2 of Act 220 of 1987 provides: "In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act is \$2,334,299,200.00 and state appropriations to be paid to local units of government are \$2,005,216,000.00."

Section 4 of Act 220 of 1987 provides: "The changes effected by this amendatory act shall be applied retroactively to October 1, 1987."

In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrase "and for 2002-2003" was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

**388.1641a Instruction for pupils of limited English-speaking ability; allocation of federal funds.**

Sec. 41a. From the federal funds appropriated in section 11, there is allocated an amount estimated at \$1,232,100.00 from the United States department of education - office of elementary and secondary education, language acquisition state grant funds, to districts and intermediate districts offering programs of instruction for pupils of limited English-speaking ability.

**History:** Add. 2003, Act 158, Eff. Oct. 1, 2003.

**388.1645—388.1648 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to school health education curriculum, school dropout prevention programs, gifted and talented pupil programs, and nonresidential alternative juvenile rehabilitation programs.

ARTICLE 5

**388.1651 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to reimbursement to districts and intermediate districts for special education programs,

services, and personnel, certain net tuition payments, and programs for pupils with handicaps.

**388.1651a Allocations for reimbursement to districts and intermediate districts for special education programs, services, and personnel, certain net tuition payments, and programs for pupils eligible for special education programs; allocation of state and federal funds; reimbursement; total payment; adjustments; rights, benefits, and tenure of transferred personnel; refund; foundation allowance; order of expenditures.**

Sec. 51a. (1) From the appropriation in section 11, there is allocated for 2003-2004 an amount not to exceed \$882,683,000.00 from state sources and all available federal funding under sections 611 to 619 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1411 to 1419, estimated at \$285,000,000.00 plus any carryover federal funds from previous year appropriations. The allocations under this subsection are for the purpose of reimbursing districts and intermediate districts for special education programs, services, and special education personnel as prescribed in article 3 of the revised school code, MCL 380.1701 to 380.1766; net tuition payments made by intermediate districts to the Michigan schools for the deaf and blind; and special education programs and services for pupils who are eligible for special education programs and services according to statute or rule. For meeting the costs of special education programs and services not reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. All federal funds allocated under this section in excess of those allocated under this section for 2002-2003 may be distributed in accordance with the flexible funding provisions of the individuals with disabilities education act, title VI of Public Law 91-230, including, but not limited to, 34 C.F.R. 300.234 and 300.235. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the funds allocated under subsection (1), there is allocated for 2003-2004 the amount necessary, estimated at \$160,500,000.00 for 2003-2004, for payments toward reimbursing districts and intermediate districts for 28.6138% of total approved costs of special education, excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Allocations under this subsection shall be made as follows:

(a) The initial amount allocated to a district under this subsection toward fulfilling the specified percentages shall be calculated by multiplying the district's special education pupil membership, excluding pupils described in subsection (12), times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00 minus \$200.00, or, for a special education pupil in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil calculated under section 20(6). For an intermediate district, the amount allocated under this subdivision toward fulfilling the specified percentages shall be an amount per special education membership pupil, excluding pupils described in subsection (12), and shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00 minus \$200.00, and that district's per pupil allocation under section 20j(2).

(b) After the allocations under subdivision (a), districts and intermediate districts for which the payments under subdivision (a) do not fulfill the specified percentages shall be paid the amount necessary to achieve the specified percentages for the district or intermediate district.

(3) From the funds allocated under subsection (1), there is allocated for 2003-2004 the amount necessary, estimated at \$2,600,000.00, to make payments to districts and intermediate districts under this subsection. If the amount allocated to a district or intermediate district for a fiscal year under subsection (2)(b) is less than the sum of the amounts allocated to the district or intermediate district for 1996-97 under sections 52 and 58, there is allocated to the district or intermediate district for the fiscal year an amount equal to that difference, adjusted by applying the same proration factor that was used in the distribution of funds under section 52 in 1996-97 as adjusted to the district's or intermediate district's necessary costs of special education used in calculations for the fiscal year. This adjustment is to reflect reductions in special education program operations between 1996-97 and subsequent fiscal years. Adjustments for reductions in special education program operations shall be made in a manner determined by

the department and shall include adjustments for program shifts.

(4) If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) is not sufficient to fulfill the specified percentages in subsection (2), then the shortfall shall be paid to the district or intermediate district during the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) exceeds the sum of the amount necessary to fulfill the specified percentages in subsection (2), then the department shall deduct the amount of the excess from the district's or intermediate district's payments under this act for the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. However, if the amount allocated under subsection (2)(a) in itself exceeds the amount necessary to fulfill the specified percentages in subsection (2), there shall be no deduction under this subsection.

(5) State funds shall be allocated on a total approved cost basis. Federal funds shall be allocated under applicable federal requirements, except that an amount not to exceed \$3,500,000.00 may be allocated by the department for 2003-2004 to districts or intermediate districts on a competitive grant basis for programs, equipment, and services that the department determines to be designed to benefit or improve special education on a statewide scale.

(6) From the amount allocated in subsection (1), there is allocated an amount not to exceed \$2,200,000.00 for 2003-2004 to reimburse 100% of the net increase in necessary costs incurred by a district or intermediate district in implementing the revisions in the administrative rules for special education that became effective on July 1, 1987. As used in this subsection, "net increase in necessary costs" means the necessary additional costs incurred solely because of new or revised requirements in the administrative rules minus cost savings permitted in implementing the revised rules. Net increase in necessary costs shall be determined in a manner specified by the department.

(7) For purposes of this article, all of the following apply:

(a) "Total approved costs of special education" shall be determined in a manner specified by the department and may include indirect costs, but shall not exceed 115% of approved direct costs for section 52 and section 53a programs. The total approved costs include salary and other compensation for all approved special education personnel for the program, including payments for social security and medicare and public school employee retirement system contributions. The total approved costs do not include salaries or other compensation paid to administrative personnel who are not special education personnel as defined in section 6 of the revised school code, MCL 380.6. Costs reimbursed by federal funds, other than those federal funds included in the allocation made under this article, are not included. Special education approved personnel not utilized full time in the evaluation of students or in the delivery of special education programs, ancillary, and other related services shall be reimbursed under this section only for that portion of time actually spent providing these programs and services, with the exception of special education programs and services provided to youth placed in child caring institutions or juvenile detention programs approved by the department to provide an on-grounds education program.

(b) Reimbursement for ancillary and other related services, as defined by R 340.1701c of the Michigan administrative code, shall not be provided when those services are covered by and available through private group health insurance carriers or federal reimbursed program sources unless the department and district or intermediate district agree otherwise and that agreement is approved by the state budget director. Expenses, other than the incidental expense of filing, shall not be borne by the parent. In addition, the filing of claims shall not delay the education of a pupil. A district or intermediate district shall be responsible for payment of a deductible amount and for an advance payment required until the time a claim is paid.

(8) From the allocation in subsection (1), there is allocated for 2003-2004 an amount not to exceed \$15,313,900.00 to intermediate districts. The payment under this subsection to each intermediate district shall be equal to the amount of the 1996-97 allocation to the intermediate district under subsection (6) of this section as in effect for 1996-97.

(9) A pupil who is enrolled in a full-time special education program conducted or administered by an intermediate district or a pupil who is enrolled in the Michigan schools for the deaf and blind shall not be included in the membership count of a district, but shall be counted in membership in the intermediate district of residence.

(10) Special education personnel transferred from 1 district to another to implement the revised school code shall be entitled to the rights, benefits, and tenure to which the person would otherwise be entitled had that person been employed by the receiving district originally.

(11) If a district or intermediate district uses money received under this section for a purpose other than the purpose or purposes for which the money is allocated, the department may require the district or intermediate district to refund the amount of money received. Money that is refunded shall be deposited in the state treasury to

the credit of the state school aid fund.

(12) From the funds allocated in subsection (1), there is allocated for 2003-2004 the amount necessary, estimated at \$6,300,000.00, to pay the foundation allowances for pupils described in this subsection. The allocation to a district under this subsection shall be calculated by multiplying the number of pupils described in this subsection who are counted in membership in the district times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00 minus \$200.00, or, for a pupil described in this subsection who is counted in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil under section 20(6). The allocation to an intermediate district under this subsection shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00 minus \$200.00, and that district's per pupil allocation under section 20j(2). This subsection applies to all of the following pupils:

- (a) Pupils described in section 53a.
- (b) Pupils counted in membership in an intermediate district who are not special education pupils and are served by the intermediate district in a juvenile detention or child caring facility.
- (c) Emotionally impaired pupils counted in membership by an intermediate district and provided educational services by the department of community health.

(13) After payments under subsections (2) and (12) and section 51c, the remaining expenditures from the allocation in subsection (1) shall be made in the following order:

- (a) 100% of the reimbursement required under section 53a.
- (b) 100% of the reimbursement required under subsection (6).
- (c) 100% of the payment required under section 54.
- (d) 100% of the payment required under subsection (3).
- (e) 100% of the payment required under subsection (8).
- (f) 100% of the payments under section 56.

(14) The allocations under subsection (2), subsection (3), and subsection (12) shall be allocations to intermediate districts only and shall not be allocations to districts, but instead shall be calculations used only to determine the state payments under section 22b.

**History:** Add. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1651b Funding; compliance with rules.**

Sec. 51b. A district or intermediate district shall not receive funds under this article unless the district or intermediate district complies with rules promulgated under article 3 of the revised school code, being sections 380.1701 to 380.1766 of the Michigan Compiled Laws.

**History:** Add. 1996, Act 300, Eff. Oct. 1, 1996.

### **388.1651c Reimbursement for percentage of special education and special education transportation costs.**

Sec. 51c. As required by the court in the consolidated cases known as Durant v. State of Michigan, Michigan supreme court docket no. 104458-104492, from the allocation under section 51a(1), there is allocated for 2003-2004 the amount necessary, estimated at \$644,400,000.00, for payments to reimburse districts for 28.6138% of total approved costs of special education excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations

## THE STATE SCHOOL AID ACT OF 1979

under sections 22a and 22b in order to fully fund those calculated allocations for the same fiscal year.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1651d Federally funded special education programs; distribution; payment schedule; "DED-OSERS" defined.**

Sec. 51d. (1) From the federal funds appropriated in section 11, there is allocated for 2003-2004 all available federal funding, estimated at \$60,500,000.00, for special education programs that are funded by federal grants. All federal funds allocated under this section shall be distributed in accordance with federal law. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the federal funds allocated under subsection (1), the following amounts are allocated for 2003-2004:

(a) An amount estimated at \$16,000,000.00 for handicapped infants and toddlers, funded from DED-OSERS, handicapped infants and toddlers funds.

(b) An amount estimated at \$13,500,000.00 for preschool grants (Public Law 94-142), funded from DED-OSERS, handicapped preschool incentive funds.

(c) An amount estimated at \$31,000,000.00 for special education programs funded by DED-OSERS, handicapped program, individuals with disabilities act funds.

(3) As used in this section, "DED-OSERS" means the United States department of education office of special education and rehabilitative services.

**History:** Add. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1652 Special education programs and services; reimbursement; limitation.**

Sec. 52. Reimbursement for the necessary costs of special education programs and services shall be a portion determined by the amount allocated under section 51a(1), but not to exceed 75% of the total approved costs of operating special education programs and services approved by the department and included or applying for inclusion in the intermediate district plan adopted pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766, for special education pupils other than those programs funded under section 53a, and of the costs of summer programs and services and the costs of providing room and board for special education pupils, as approved by the department. If the state financed proportion of reimbursement of the necessary costs of a special education activity or service required by article 3 of the revised school code, MCL 380.1701 to 380.1766, which is in addition to or different from the special education activities or services required under sections 611 to 620 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1411 to 1420, is less than the state financed proportion of the necessary costs of that activity or service in 1978-79, the portion of the amount appropriated shall be increased to reimburse that activity or service accordingly.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997.

### **388.1653 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to special education programs and services.

### **388.1653a Special education programs and services; reimbursement of total approved costs; limitation; costs of transportation; allocation.**



## THE STATE SCHOOL AID ACT OF 1979

Sec. 53a. (1) For districts, reimbursement for pupils described in subsection (2), reimbursement shall be 100% of the total approved costs of operating special education programs and services approved by the department and included in the intermediate district plan adopted pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766, minus the district's foundation allowance calculated under section 20, and minus the amount calculated for the district under section 20j. For intermediate districts, reimbursement for pupils described in section (2) shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed \$6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and \$5,000.00, minus \$200.00, and under section 20j.

(2) Reimbursement under subsection (1) is for the following special education pupils:

(a) Pupils assigned to a district or intermediate district through the community placement program of the courts or a state agency, if the pupil was a resident of another intermediate district at the time the pupil came under the jurisdiction of the court or a state agency.

(b) Pupils who are residents of institutions operated by the department of community health.

(c) Pupils who are former residents of department of community health institutions for the developmentally disabled who are placed in community settings other than the pupil's home.

(d) Pupils enrolled in a department-approved on-grounds educational program longer than 180 days, but not longer than 233 days, at a residential child care institution, if the child care institution offered in 1991-92 an on-grounds educational program longer than 180 days but not longer than 233 days.

(e) Pupils placed in a district by a parent for the purpose of seeking a suitable home, if the parent does not reside in the same intermediate district as the district in which the pupil is placed.

(3) Only those costs that are clearly and directly attributable to educational programs for pupils described in subsection (2), and that would not have been incurred if the pupils were not being educated in a district or intermediate district, are reimbursable under this section.

(4) The costs of transportation shall be funded under this section and shall not be reimbursed under section 58.

(5) Not more than \$12,800,000.00 of the allocation for 2003-2004 in section 51a(1) shall be allocated under this section.

**History:** Add. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Former § 388.1653a, which pertained to competitive contract bidding process to provide education services to emotionally impaired pupils, was repealed by Act 175 of 1993, Eff. Oct. 1, 1993.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1654 Intermediate district to receive amount for pupil attending Michigan schools for the deaf and blind.**

Sec. 54. In addition to the aid received under section 52, each intermediate district shall receive an amount per pupil for each pupil in attendance at the Michigan schools for the deaf and blind. The amount shall be proportionate to the total instructional cost at each school. Not more than \$1,688,000.00 of the allocation for 2003-2004 in section 51a(1) shall be allocated under this section.

**History:** Add. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 220, Eff. Dec. 28, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Section 2 of Act 220 of 1987 provides: "In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act is \$2,334,299,200.00 and state appropriations to be paid to local units of government are \$2,005,216,000.00."

## THE STATE SCHOOL AID ACT OF 1979

Section 4 of Act 220 of 1987 provides: "The changes effected by this amendatory act shall be applied retroactively to October 1, 1987."

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1655 Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to allocation to west Michigan center for autism spectrum disorders at Grand Valley state university.

### **388.1656 Definitions; reimbursement to intermediate districts levying millages for special education; limitation; distribution plan; computation.**

Sec. 56. (1) For the purposes of this section:

(a) "Membership" means for a particular fiscal year the total membership for the immediately preceding fiscal year of the intermediate district and the districts constituent to the intermediate district.

(b) "Millage levied" means the millage levied for special education pursuant to part 30 of the revised school code, MCL 380.1711 to 380.1743, including a levy for debt service obligations.

(c) "Taxable value" means the total taxable value of the districts constituent to an intermediate district, except that if a district has elected not to come under part 30 of the revised school code, MCL 380.1711 to 380.1743, membership and taxable value of the district shall not be included in the membership and taxable value of the intermediate district.

(2) From the allocation under section 51a(1), there is allocated an amount not to exceed \$36,881,100.00 for 2003-2004 to reimburse intermediate districts levying millages for special education pursuant to part 30 of the revised school code, MCL 380.1711 to 380.1743. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by these millages and governed by the intermediate district plan adopted pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. As a condition of receiving funds under this section, an intermediate district distributing any portion of special education millage funds to its constituent districts shall submit for departmental approval and implement a distribution plan.

(3) Reimbursement for those millages levied in 2002-2003 shall be made in 2003-2004 at an amount per 2002-2003 membership pupil computed by subtracting from \$132,275.00 the 2002-2003 taxable value behind each membership pupil and multiplying the resulting difference by the 2002-2003 millage levied.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1657 Advanced and accelerated pupils; support services; summer institutes; development and operation of comprehensive programs.**

Sec. 57. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$50,000.00 for 2003-2004 to applicant intermediate districts that provide support services for the education of advanced and accelerated pupils. An intermediate district is entitled to 75% of the actual salary, but not to exceed \$25,000.00 reimbursement for an individual salary, of a support services teacher approved by the department, and not to exceed \$4,000.00 reimbursement for expenditures to support program costs, excluding in-county travel and salary, as approved by the department.

## THE STATE SCHOOL AID ACT OF 1979

(2) From the appropriation in section 11, there is allocated an amount not to exceed \$0.00 for 2003-2004 to support part of the cost of summer institutes for advanced and accelerated students. This amount shall be contracted to applicant intermediate districts in cooperation with a local institution of higher education and shall be coordinated by the department.

(3) From the appropriation in section 11, there is allocated an amount not to exceed \$200,000.00 for 2003-2004 for the development and operation of comprehensive programs for advanced and accelerated pupils. An eligible district or consortium of districts shall receive an amount not to exceed \$100.00 per K-12 pupil for up to 5% of the district's or consortium's K-12 membership for the immediately preceding fiscal year with a minimum total grant of \$6,000.00. Funding shall be provided in the following order: the per pupil allotment, and then the minimum total grant of \$6,000.00 to individual districts. An intermediate district may act as the fiscal agent for a consortium of districts. In order to be eligible for funding under this subsection, the district or consortium of districts shall submit each year a current 3-year plan for operating a comprehensive program for advanced and accelerated pupils and the district or consortium shall demonstrate to the department that the district or consortium will contribute matching funds of at least \$50.00 per K-12 pupil. The plan or revised plan shall be developed in accordance with criteria established by the department and shall be submitted to the department for approval. Within the criteria, the department shall encourage the development of consortia among districts of less than 5,000 memberships.

**History:** Add. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Former § 388.1657, which pertained to allocation for special education students, was repealed by Act 128 of 1987, Eff. Oct. 1, 1987.

In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrase “and for 2002-2003” was vetoed by the governor September 28, 2001.

In the first sentence of subsection (2), as amended by Act 121 of 2001, the phrase “and for 2002-2003” was vetoed by the governor September 28, 2001.

In the first sentence of subsection (3), as amended by Act 121 of 2001, the phrase “and an amount not to exceed \$4,000,000.00 for 2002-2003” was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

“Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1658 Special education transportation services; basis.**

Sec. 58. Allocations to districts and intermediate districts under section 51a for providing special education transportation services shall be based on data reported by the districts and intermediate districts for the current school year.

**History:** Add. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997.

## ARTICLE 6

### **388.1661 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to reimbursement for vocational-technical education programs.

### **388.1661a Vocational-technical programs; added cost; reimbursement for local vocational administration, shared-time vocational administration, and career education planning district vocational-technical administration; allocation.**

Sec. 61a. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$30,000,000.00 for 2003-2004 to reimburse on an added cost basis districts, except for a district that served as the fiscal agent for a vocational education consortium in the 1993-94 school year, and secondary area vocational-technical education centers for secondary-level vocational-technical education programs, including parenthood education programs, according to rules approved by the superintendent. Applications for participation in the programs shall be submitted

in the form prescribed by the department. The department shall determine the added cost for each vocational-technical program area. The allocation of added cost funds shall be based on the type of vocational-technical programs provided, the number of pupils enrolled, and the length of the training period provided, and shall not exceed 75% of the added cost of any program. With the approval of the department, the board of a district maintaining a secondary vocational-technical education program may offer the program for the period from the close of the school year until September 1. The program shall use existing facilities and shall be operated as prescribed by rules promulgated by the superintendent.

(2) Except for a district that served as the fiscal agent for a vocational education consortium in the 1993-94 school year, districts and intermediate districts shall be reimbursed for local vocational administration, shared time vocational administration, and career education planning district vocational-technical administration. The definition of what constitutes administration and reimbursement shall be pursuant to guidelines adopted by the superintendent. Not more than \$800,000.00 of the allocation in subsection (1) shall be distributed under this subsection.

(3) From the allocation in subsection (1), there is allocated an amount not to exceed \$388,700.00 for 2003-2004 to intermediate districts with constituent districts that had combined state and local revenue per membership pupil in the 1994-95 state fiscal year of \$6,500.00 or more, served as a fiscal agent for a state board designated area vocational education center in the 1993-94 school year, and had an adjustment made to their 1994-95 combined state and local revenue per membership pupil pursuant to section 20d. The payment under this subsection to the intermediate district shall equal the amount of the allocation to the intermediate district for 1996-97 under this subsection.

**History:** Add. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrase “and for 2002-2003” was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

“Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1662 Definitions; vocational-technical education programs; limitation.**

Sec. 62. (1) For the purposes of this section:

(a) “Membership” means for a particular fiscal year the total membership for the immediately preceding fiscal year of the intermediate district and the districts constituent to the intermediate district or the total membership for the immediately preceding fiscal year of the area vocational-technical program.

(b) “Millage levied” means the millage levied for area vocational-technical education pursuant to sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, including a levy for debt service obligations incurred as the result of borrowing for capital outlay projects and in meeting capital projects fund requirements of area vocational-technical education.

(c) “Taxable value” means the total taxable value of the districts constituent to an intermediate district or area vocational-technical education program, except that if a district has elected not to come under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, the membership and taxable value of that district shall not be included in the membership and taxable value of the intermediate district. However, the membership and taxable value of a district that has elected not to come under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, shall be included in the membership and taxable value of the intermediate district if the district meets both of the following:

(i) The district operates the area vocational-technical education program pursuant to a contract with the intermediate district.

(ii) The district contributes an annual amount to the operation of the program that is commensurate with the revenue that would have been raised for operation of the program if millage were levied in the district for the program under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690.

(2) From the appropriation in section 11, there is allocated an amount not to exceed \$9,000,000.00 for 2003-2004 to reimburse intermediate districts and area vocational-technical education programs established under section

## THE STATE SCHOOL AID ACT OF 1979

690(3) of the revised school code, MCL 380.690, levying millages for area vocational-technical education pursuant to sections 681 to 690 of the revised school code, MCL 380.681 to 380.690. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by those millages.

(3) Reimbursement for the millages levied in 2002-2003 shall be made in 2003-2004 at an amount per 2002-2003 membership pupil computed by subtracting from \$137,700.00 the 2002-2003 taxable value behind each membership pupil and multiplying the resulting difference by the 2002-2003 millage levied.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Imd. Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** In the first sentence of subsection (2), as amended by Act 121 of 2001, the phrase “and an amount not to exceed \$11,330,000.00 for 2002-2003” was vetoed by the governor September 28, 2001.

In the first sentence of subsection (4), as amended by Act 121 of 2001, the phrase “and an amount not to exceed \$1,470,000.00 for 2002-2003” was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

“Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1663 Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.**

**Compiler's note:** The repealed section pertained to Michigan manufacturing technology program.

### **388.1664 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to adult vocational education training in partnership with business entity.

### **388.1665 Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to aggregate and estimated expenditures for vocational education.

### **388.1666 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to job training and development programs.

### **388.1667 Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to Michigan career preparation system grants.

### **388.1668 Michigan career preparation system; allocations and regional career preparation plan; review by education advisory group; definitions.**

Sec. 68. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$0.00 for 2003-2004 to be used to implement the Michigan career preparation system as provided under this section. These funds may be used for the purposes of this section and for the purposes of former section 67 as in effect for 2002-2003. In order to receive funds under this section, an eligible education agency shall be part of an approved regional career preparation plan under subsection (2) and shall agree to expend the funds required under this section in accordance with the regional career preparation plan. Funds awarded under this section that are not expended in accordance with this section may be recovered by the department.

(2) In order to receive funding under this section, an eligible education agency shall be a part of an approved 3-year regional career preparation plan that is consistent with the workforce development board's strategic plan and is as described in this subsection. All of the following apply to a regional career preparation plan:

(a) A 3-year regional career preparation plan shall be developed under subdivisions (b), (c), and (d) for all public education agencies participating as part of a regional career preparation system within the geographical boundaries of a workforce development board, and revised annually. If an intermediate district is located within the geographical boundaries of more than 1 workforce development board, the board of the intermediate district shall choose 1 workforce development board with which to align and shall notify the department of this choice not later



than October 31, 1997.

(b) The regional career preparation plan shall be developed by representatives of the education advisory group of each workforce development board in accordance with guidelines developed under former section 67(5), and in accordance with subdivisions (d) and (e). All of the following shall be represented on each education advisory group: workforce development board members, other employers, labor, districts, intermediate districts, postsecondary institutions, career/technical educators, parents of public school pupils, and academic educators. The representatives of districts, intermediate districts, and postsecondary institutions appointed to the education advisory group by the workforce development board shall be individuals designated by the board of the district, intermediate district, or postsecondary institution.

(c) By majority vote, the education advisory group may nominate 1 education representative, who may or may not be a member of the education advisory group, for appointment to the workforce development board. This education representative shall be in addition to existing education representation on the workforce development board. This education representative shall meet all workforce development board membership requirements.

(d) The components of the regional career preparation plan shall include, but are not limited to, all of the following:

(i) The roles of districts, intermediate districts, advanced career academies, postsecondary institutions, employers, labor representatives, and others in the career preparation system.

(ii) Programs to be offered, including at least career exploration activities, for middle school pupils.

(iii) Identification of integrated academic and technical curriculum, including related professional development training for teachers.

(iv) Identification of work-based learning opportunities for pupils and for teachers and other school personnel.

(v) Identification of testing and assessments that will be used to measure pupil achievement.

(vi) Identification of all federal, state, local, and private sources of funding available for career preparation activities in the region.

(e) The education advisory group shall develop a 3-year regional career preparation plan consistent with the workforce development board's strategic plan and submit the plan to the department for final approval. The submission to the department shall also include statements signed by the chair of the education advisory group and the chair of the workforce development board certifying that the plan has been reviewed by each entity. Upon department approval, all eligible education agencies designated in the regional career preparation plan as part of the career preparation delivery system are eligible for funding under this section.

(3) Funding under this section shall be distributed to eligible education agencies for allowable costs defined in this subsection and identified as necessary costs for implementing a regional career preparation plan, as follows:

(a) The department shall rank all career clusters, including career exploration, guidance, and counseling. Rank determination will be based on median salary data in career clusters and employment opportunity data provided by the council for career preparation standards. In addition, rank determination shall be based on placement data available for prior year graduates of the programs in the career clusters either in related careers or postsecondary education. The procedure for ranking of career clusters shall be determined by the department.

(b) Allowable costs to be funded under this section shall be determined by the department. Budgets submitted by eligible education agencies to the department in order to receive funding shall identify funds and in-kind contributions from the regional career education plan, excluding funds or in-kind contributions available as a result of funding received under section 61a, equal to at least 100% of anticipated funding under this section. Eligible categories of allowable costs are the following:

(i) Career exploration, guidance, and counseling.

(ii) Curriculum development, including integration of academic and technical content, and professional development for teachers directly related to career preparation.

(iii) Technology and equipment determined to be necessary.

(iv) Supplies and materials directly related to career preparation programs.

(v) Work-based learning expenses for pupils, teachers, and counselors.

(vi) Evaluation, including career competency testing and peer review.

(vii) Career placement services.

(viii) Student leadership organizations integral to the career preparation system.

(ix) Up to 10% of the allocation to an eligible education agency may be expended for planning, coordination, direct oversight, and accountability for the career preparation system.

(c) The department shall calculate career preparation costs per FTE for each career cluster, including career exploration, guidance, and counseling, by dividing the allowable costs for each career cluster by the prior year FTE

enrollment for each career cluster. Distribution to eligible education agencies shall be the product of 50% of career preparation costs per FTE times the current year FTE enrollment of each career cluster. This allocation shall be distributed to eligible education agencies in decreasing order of the career cluster ranking described in subdivision (a) until the money allocated for grant recipients in this section is distributed. Beginning in 2001-2002, funds shall be distributed to eligible education agencies according to workforce development board geographic area consistent with subsection (2)(a) based upon the proportion of each workforce development board area's K-12 public school membership to the total state K-12 public school membership.

(4) The department shall establish a review procedure for assessing the career preparation system in each region.

(5) An education advisory group is responsible for assuring the quality of the career preparation system. An education advisory group shall review the career preparation system in accordance with evaluation criteria established by the department.

(6) An education advisory group shall report its findings and recommendations for changes to the participating eligible education agencies, the workforce development board, and the department.

(7) The next revision of a regional career preparation plan shall take into account the findings of the education advisory group in accordance with evaluation criteria established by the department in order for the affected education agencies to receive continued funding under this section.

(8) As used in this section:

(a) "Advanced career academy" means a career-technical education program operated by a district, by an intermediate district, or by a public school academy, that applies for and receives advanced career academy designation from the department. To receive this designation, a career-technical education program shall meet criteria established by the department, which criteria shall include at least all of the following:

(i) Operation of programs for those career clusters identified by the department as being eligible for advanced career academy status.

(ii) Involvement of employers in the design and implementation of career-technical education programs.

(iii) A fully integrated program of academic and technical education available to pupils.

(iv) Demonstration of an established career preparation system resulting in industry-validated career ladders for graduates of the program, including, but not limited to, written articulation agreements with postsecondary institutions to allow pupils to receive advanced college placement and credit or federally registered apprenticeships, as applicable.

(b) "Career cluster" means a grouping of occupations from 1 or more industries that share common skill requirements.

(c) "Career preparation system" is a system of programs and strategies providing pupils with opportunities to prepare for success in careers of their choice.

(d) "Department" means the department of career development.

(e) "Eligible education agency" means a district, intermediate district, or advanced career academy that participates in an approved regional career preparation plan.

(f) "FTE" means full-time equivalent pupil as determined by the department.

(g) "Workforce development board" means a local workforce development board established pursuant to the workforce investment act of 1998, Public Law 105-220, 112 Stat. 936, and the school-to-work opportunities act of 1994, Public Law 103-239, 108 Stat. 568, or the equivalent.

(h) "Strategic plan" means a department-approved comprehensive plan prepared by a workforce development board with input from local representatives, including the education advisory group, that includes career preparation system goals and objectives for the region.

**History:** Add. 1997, Act 93, Imd. Eff. Aug. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003;—Am. 2003, Act 236, Imd. Eff. Dec. 29, 2003.

**Compiler's note:** In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrase "and for 2002-2003" was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

Enacting section 1 of Act 236 of 2003 provides:

## THE STATE SCHOOL AID ACT OF 1979

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2003 PA 158 and 2002 PA 521 from state sources for fiscal year 2003-2004 is estimated at \$11,290,087,100.00 and state appropriations to be paid to local units of government for fiscal year 2003-2004 are estimated at \$11,274,332,800.00."

### ARTICLE 7

#### **388.1671, 388.1672 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to transportation services funding and aid.

#### **388.1673 Repealed. 1986, Act 212, Eff. Oct. 1, 1986.**

**Compiler's note:** The repealed section pertained to transportation programs and procurement of school buses.

#### **388.1674 School bus driver safety instruction or driver skills road tests; cost of instruction and driver compensation; nonspecial education auxiliary services transportation.**

Sec. 74. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed \$1,625,000.00 for 2003-2004 for the purposes of subsections (2) and (3).

(2) From the allocation in subsection (1), there is allocated each fiscal year the amount necessary for payments to state supported colleges or universities and intermediate districts providing school bus driver safety instruction or driver skills road tests pursuant to sections 51 and 52 of the pupil transportation act, 1990 PA 187, MCL 257.1851 and 257.1852. The payments shall be in an amount determined by the department not to exceed 75% of the actual cost of instruction and driver compensation for each public or nonpublic school bus driver attending a course of instruction. For the purpose of computing compensation, the hourly rate allowed each school bus driver shall not exceed the hourly rate received for driving a school bus. Reimbursement compensating the driver during the course of instruction or driver skills road tests shall be made by the department to the college or university or intermediate district providing the course of instruction.

(3) From the allocation in subsection (1), there is allocated each fiscal year the amount necessary to pay the reasonable costs of nonspecial education auxiliary services transportation provided pursuant to section 1323 of the revised school code, MCL 380.1323. Districts funded under this subsection shall not receive funding under any other section of this act for nonspecial education auxiliary services transportation.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1991, Act 200, Imd. Eff. Jan. 2, 1992;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** In his veto message relative to Enrolled House Bill 4572, which became Act 118 of 1991, the governor stated that "the tradition of not re-enacting annually the unchanged appropriation sections of the school aid act is constitutionally flawed. It assumes the invalid creation of a continuing appropriation. Therefore, the following sections of the school aid act and their associated allocations must be considered inoperative: 24, 55, 74, 75, 105a, 111, and 116. These sections will be treated as excluded from the current bill..."

In subsection (1), as amended by Act 121 of 2001, the phrase "and for 2002-2003" was vetoed by the governor September 28, 2001. Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

#### **388.1675 Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to nonspecial education auxiliary services transportation.

#### **388.1676 Funding for transporting nonpublic school students.**

Sec. 76. If a district received money in 1993-94 attributable to nonspecial education transportation under former section 71 and that money was included in calculating the district's combined state and local revenue per membership pupil in 1993-94 under section 20(21), as that section was in effect for 1994-95, then the district shall use money received under section 20 as the funding for transporting nonpublic school students as required under section 1321 of the revised school code, being section 380.1321 of the Michigan Compiled Laws.

## THE STATE SCHOOL AID ACT OF 1979

**History:** Add. 1995, Act 130, Imd. Eff. June 30, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996.

### ARTICLE 8

#### **388.1681 Allocations to intermediate districts; amounts; report of adjustment and amount of increase; employment of person trained in pupil counting.**

Sec. 81. (1) Except as otherwise provided in this section, from the appropriation in section 11, there is allocated for 2003-2004 to the intermediate districts the sum necessary, but not to exceed \$91,702,100.00, to provide state aid to intermediate districts under this section. Except as otherwise provided in this section, there shall be allocated to each intermediate district for 2003-2004 an amount equal to 96.5% of the amount appropriated under this subsection for 2002-2003 in 2002 PA 521, before any reduction made for 2002-2003 under section 11(3). Funding provided under this section shall be used to comply with requirements of this act and the revised school code that are applicable to intermediate districts, and for which funding is not provided elsewhere in this act, and to provide technical assistance to districts as authorized by the intermediate school board.

(2) From the allocation in subsection (1), there is allocated to an intermediate district, formed by the consolidation or annexation of 2 or more intermediate districts or the attachment of a total intermediate district to another intermediate school district or the annexation of all of the constituent K-12 districts of a previously existing intermediate school district which has disorganized, an additional allotment of \$3,500.00 each fiscal year for each intermediate district included in the new intermediate district for 3 years following consolidation, annexation, or attachment.

(3) During a fiscal year, the department shall not increase an intermediate district's allocation under subsection (1) because of an adjustment made by the department during the fiscal year in the intermediate district's taxable value for a prior year. Instead, the department shall report the adjustment and the estimated amount of the increase to the house and senate fiscal agencies and the state budget director not later than June 1 of the fiscal year, and the legislature shall appropriate money for the adjustment in the next succeeding fiscal year.

(4) In order to receive funding under this section, an intermediate district shall demonstrate to the satisfaction of the department that the intermediate district employs at least 1 person who is trained in pupil counting procedures, rules, and regulations.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1981, Act 113, Eff. Oct. 1, 1981;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1987, Act 220, Eff. Dec. 28, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1989, Act 235, Imd. Eff. Dec. 21, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Mar. 15, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Subsection (3) of Sec. 81, as amended by Act 128 of 1987, was vetoed by the governor on July 24, 1987. Sec. 81, as amended by Act 212 of 1986, did not have a subsection (3).

Section 2 of Act 220 of 1987 provides: "In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act is \$2,334,299,200.00 and state appropriations to be paid to local units of government are \$2,005,216,000.00."

Section 4 of Act 220 of 1987 provides: "The changes effected by this amendatory act shall be applied retroactively to October 1, 1987."

Subsection (3) of Sec. 81, as amended by Act 118 of 1991, was vetoed by the governor on October 11, 1991. Subsection (3) of Sec. 81, as amended by Act 207 of 1990, is set forth in the text of Sec. 81 above.

In the first sentence of subsection (1), as amended by Act 121 of 2001, the phrases "and for 2002-2003" and "and not to exceed \$95,028,100.00 for 2002-2003" were vetoed by the governor September 28, 2001.

The fourth sentence of subsection (1), as amended by Act 121 of 2001, and which read "Except as otherwise provided in this section, there shall be allocated to each intermediate district for 2002-2003 an amount equal to 103.1% of the amount of funding actually received by the intermediate district under this subsection for 2001-2002.", was vetoed by the governor September 28, 2001.

In the second sentence of subsection (3), as amended by Act 121 of 2001, the phrase "and for 2002-2003" was vetoed by the governor September 28, 2001.

In the first sentence of subsection (5), as amended by Act 121 of 2001, the phrase "and an amount not to exceed \$940,000.00 for 2002-2003" was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327,

## THE STATE SCHOOL AID ACT OF 1979

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MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1681a Repealed. 1988, Act 318, Eff. Oct. 1, 1988.**

**Compiler's note:** The repealed section pertained to reduction of allocations.

### **388.1683 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to educational media centers.

### **388.1684 Repealed. 1991, Act 118, Imd. Eff. Oct. 11, 1991.**

**Compiler's note:** The repealed section pertained to instructional services to homebound or hospitalized pupils.

### **388.1685 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to allocations for intermediate school districts.

### **388.1686 Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to regular nonspecial education educational programs in residential child care institutions for court placed pupils.

## ARTICLE 9

### **388.1690 Repealed. 1992, Act 148, Eff. Oct. 1, 1992.**

**Compiler's note:** The repealed section pertained to allocations for innovative and diversified educational programs and for pilot school-level building program.

### **388.1691 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to long-range school improvement plans, annual education report, and core curriculum.

### **388.1691a Cessation of pilot intermediate district schools of choice program; enrollment of nonresident pupil in district.**

Sec. 91a. If a district allowed a nonresident pupil to enroll in the district under a pilot intermediate district schools of choice program under former section 91, the district shall continue to allow that pupil to enroll in the district until the pupil graduates from high school even if the district ceases to participate in the pilot intermediate district schools of choice program or the program is discontinued.

**History:** Add. 1995, Act 130, Eff. Oct. 1, 1995.

### **388.1691b Repealed. 2000, Act 297, Eff. Oct. 1, 2000.**

**Compiler's note:** The repealed section pertained to enrollment of nonresident pupil in district.

### **388.1691c Transfer student; eligibility to participate in interscholastic athletic competition.**

Sec. 91c. A pupil who transfers to a district other than the pupil's district of residence under an intermediate district schools of choice pilot program under former section 91 is ineligible to participate in interscholastic athletic competition for a period of 1 semester from the date the pupil transfers.

**History:** Add. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

### **388.1692a Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to basic skills development program.

### **388.1693 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to alternative education programs for school-age expectant parents and school-age parents and their children.

### **388.1694 Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**



## THE STATE SCHOOL AID ACT OF 1979

**Compiler's note:** The repealed section pertained to technical assistance to districts for school accreditation purposes.

### **388.1694a Center for educational performance and information.**

Sec. 94a. (1) There is created within the office of the state budget director in the department of management and budget the center for educational performance and information. The center shall do all of the following:

(a) Coordinate the collection of all data required by state and federal law from all entities receiving funds under this act.

(b) Collect data in the most efficient manner possible in order to reduce the administrative burden on reporting entities.

(c) Establish procedures to ensure the validity and reliability of the data and the collection process.

(d) Develop state and model local data collection policies, including, but not limited to, policies that ensure the privacy of individual student data. State privacy policies shall ensure that student social security numbers are not released to the public for any purpose.

(e) Provide data in a useful manner to allow state and local policymakers to make informed policy decisions.

(f) Provide reports to the citizens of this state to allow them to assess allocation of resources and the return on their investment in the education system of this state.

(g) Assist all entities receiving funds under this act in complying with audits performed according to generally accepted accounting procedures.

(h) Other functions as assigned by the state budget director.

(2) Not later than August 15, 2004, each state department, officer, or agency that collects information from districts or intermediate districts as required under state or federal law shall make arrangements with the center, and with the districts or intermediate districts, to have the center collect the information and to provide it to the department, officer, or agency as necessary. To the extent that it does not cause financial hardship, the center shall arrange to collect the information in a manner that allows electronic submission of the information to the center. Each affected state department, officer, or agency shall provide the center with any details necessary for the center to collect information as provided under this subsection. This subsection does not apply to information collected by the department of treasury under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a; the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821; 1961 PA 108, MCL 388.951 to 388.963; or section 1351a of the revised school code, MCL 380.1351a.

(3) The state budget director shall appoint a CEPI advisory committee, consisting of the following members:

(a) One representative from the house fiscal agency.

(b) One representative from the senate fiscal agency.

(c) One representative from the office of the state budget director.

(d) One representative from the state education agency.

(e) One representative each from the department of career development and the department of treasury.

(f) Three representatives from intermediate school districts.

(g) One representative from each of the following educational organizations:

(i) Michigan association of school boards.

(ii) Michigan association of school administrators.

(iii) Michigan school business officials.

(h) One representative representing private sector firms responsible for auditing school records.

(i) Other representatives as the state budget director determines are necessary.

(4) The CEPI advisory committee appointed under subsection (3) shall provide advice to the director of the center regarding the management of the center's data collection activities, including, but not limited to:

(a) Determining what data is necessary to collect and maintain in order to perform the center's functions in the most efficient manner possible.

(b) Defining the roles of all stakeholders in the data collection system.

(c) Recommending timelines for the implementation and ongoing collection of data.

(d) Establishing and maintaining data definitions, data transmission protocols, and system specifications and procedures for the efficient and accurate transmission and collection of data.

(e) Establishing and maintaining a process for ensuring the accuracy of the data.

(f) Establishing and maintaining state and model local policies related to data collection, including, but not limited to, privacy policies related to individual student data.

(g) Ensuring the data is made available to state and local policymakers and citizens of this state in the most useful format possible.

## THE STATE SCHOOL AID ACT OF 1979

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- (h) Other matters as determined by the state budget director or the director of the center.
- (5) The center may enter into any interlocal agreements necessary to fulfill its functions.
- (6) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$4,500,000.00 each fiscal year for 2002-2003 and for 2003-2004 to the department of management and budget to support the operations of the center. The center shall cooperate with the state education agency to ensure that this state is in compliance with federal law and is maximizing opportunities for increased federal funding to improve education in this state. In addition, from the federal funds appropriated in section 11 for 2002-2003 and for 2003-2004, there is allocated the following amounts each fiscal year in order to fulfill federal reporting requirements:
  - (a) An amount estimated at \$1,000,000.00 funded from DED-OESE, title I, disadvantaged children funds.
  - (b) An amount estimated at \$284,700.00 funded from DED-OESE, title I, reading first state grant funds.
  - (c) An amount estimated at \$46,750.00 funded from DED-OESE, title I, migrant education funds.
  - (d) An amount estimated at \$500,000.00 funded from DED-OESE, improving teacher quality funds.
  - (e) An amount estimated at \$526,100.00 funded from DED-OESE, drug-free schools and communities funds.
- (7) Funds allocated under this section that are not expended in the fiscal year in which they were allocated may be carried forward to a subsequent fiscal year. From the funds allocated for 1999-2000 that were carried forward under this section and from the general funds appropriated under this section for 2002-2003, the center shall make grants to intermediate districts for the purpose of assisting the intermediate districts and their constituent districts in data collection required by state and federal law or necessary for audits according to generally accepted accounting procedures. Grants to each intermediate district shall be made at the rate of \$2.00 per each full-time equated membership pupil times the total number of 2000-2001 pupils in membership in the intermediate district and its constituent districts. An intermediate district shall develop a plan in cooperation with its constituent districts to distribute the grants between the intermediate district and its constituent districts. These grants shall be paid to intermediate districts no later than the next regularly scheduled school aid payment after the effective date of this section.
- (8) If the applicable intermediate district determines that the pupil counts submitted by a district for the February 2002 supplemental pupil count using the single record student database cannot be audited by the intermediate district pursuant to section 101, all of the following apply:
  - (a) The district may submit its pupil count data for the February 2002 supplemental pupil count using the education data network system.
  - (b) If the applicable intermediate district determines that the pupil counts submitted by the district for the 2002-2003 pupil membership count day using the single record student database cannot be audited by the intermediate district pursuant to section 101, the district may submit its pupil count data for the 2002-2003 pupil membership count day using the education data network system.
- (9) At least 30 days before implementing a proposed electronic data collection, submission, or collation process, or a proposed change to 1 or more of those processes, the center shall submit the proposal and an analysis of the proposal to the senate and house of representatives appropriations subcommittees responsible for this act. The analysis shall include at least a determination of the cost of the proposal for districts and intermediate districts and of available funding for districts and intermediate districts.
- (10) The center may bill departments as necessary in order to fulfill reporting requirements of state and federal law.
- (11) As used in this section:
  - (a) "Center" means the center for educational performance and information created under this section.
  - (b) "DED-OESE" means the United States department of education office of elementary and secondary education.
  - (c) "State education agency" means the department.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 180, Imd. Eff. Oct. 3, 2003.

**Compiler's note:** In subsection (1), as amended by Act 121 of 2001, the phrase "and an amount not to exceed \$2,519,000.00 for 2002-2003" was vetoed by the governor September 28, 2001.

For transfer of powers, duties, functions, and responsibilities of the database for educational performance and information to the center for educational performance and information by type II transfer, see E.R.O. No. 2000-6, compiled at § 388.996 of the Michigan compiled laws.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

## THE STATE SCHOOL AID ACT OF 1979

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For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

Sec. 94a, as amended by Act 158 of 2003, was vetoed by the governor on August 11, 2003.

### **388.1695 Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.**

**Compiler's note:** The repealed section pertained to teacher professional development training program.

### **388.1696 Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to golden apple awards.

### **388.1697 Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.**

**Compiler's note:** The repealed section pertained to teacher technology initiative.

### **388.1698 Michigan virtual high school; powers and duties of Michigan virtual university.**

Sec. 98. (1) From the general fund money appropriated in section 11, there is allocated an amount not to exceed \$750,000.00 for 2003-2004 to provide a grant to the Michigan virtual university for the development, implementation, and operation of the Michigan virtual high school and to fund other purposes described in this section. In addition, from the federal funds appropriated in section 11, there is allocated for 2003-2004 an amount estimated at \$2,250,000.00 from DED-OESE, title II, improving teacher quality funds.

(2) The Michigan virtual high school shall have the following goals:

(a) Significantly expand curricular offerings for high schools across this state through agreements with districts or licenses from other recognized providers. The Michigan virtual university shall explore options for providing rigorous civics curricula online.

(b) Create statewide instructional models using interactive multimedia tools delivered by electronic means, including, but not limited to, the internet, digital broadcast, or satellite network, for distributed learning at the high school level.

(c) Provide pupils with opportunities to develop skills and competencies through on-line learning.

(d) Offer teachers opportunities to learn new skills and strategies for developing and delivering instructional services.

(e) Accelerate this state's ability to respond to current and emerging educational demands.

(f) Grant high school diplomas through a dual enrollment method with districts.

(g) Act as a broker for college level equivalent courses, as defined in section 1471 of the revised school code, MCL 380.1471, and dual enrollment courses from postsecondary education institutions.

(3) The Michigan virtual high school course offerings shall include, but are not limited to, all of the following:

(a) Information technology courses.

(b) College level equivalent courses, as defined in section 1471 of the revised school code, MCL 380.1471.

(c) Courses and dual enrollment opportunities.

(d) Programs and services for at-risk pupils.

(e) General education development test preparation courses for adjudicated youth.

(f) Special interest courses.

(g) Professional development programs and services for teachers.

(4) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding the DED-OESE, title II, improving teacher quality funds as provided under this subsection. The memorandum of understanding under this subsection shall require that the Michigan virtual university coordinate the following activities related to DED-OESE, title II, improving teacher quality funds in accordance with federal law:

(a) Develop, and assist districts in the development and use of, proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(b) Encourage and support the training of teachers and administrators to effectively integrate technology into curricula and instruction.

(c) Coordinate the activities of eligible partnerships that include higher education institutions for the purposes of providing professional development activities for teachers, paraprofessionals, and principals as defined in federal law.

(5) If a home-schooled or nonpublic school student is a resident of a district that subscribes to services provided by the Michigan virtual university, the student may use the services provided by the Michigan virtual university to

the district without charge to the student beyond what is charged to a district pupil using the same services.

(6) From the allocations in subsection (1), the amount necessary, not to exceed \$1,250,000.00, shall be used to provide online professional development for classroom teachers. This allocation is intended to be for the first of 3 years. These funds may be used for designing and building courses, marketing and outreach, workshops and evaluation, content acquisition, technical assistance, project management, and customer support. The Michigan virtual university shall offer at least 5 hours of online professional development for classroom teachers under this section in 2003-2004 without charge to the teachers or to districts or intermediate districts.

(7) A district or intermediate district may require a full-time teacher to participate in at least 5 hours of online professional development provided by the Michigan virtual university under subsection (6). Five hours of this professional development shall be considered to be part of the 51 hours allowed to be counted as hours of pupil instruction under section 101(10).

(8) As used in this section:

(a) "DED-OESE" means the United States department of education office of elementary and secondary education.

(b) "State education agency" means the department.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Former § 388.1698, which pertained to professional development programs, was repealed by Act 336 of 1993, Eff. Oct. 1, 1994.

In subsection (1), as amended by Act 121 of 2001, the phrase "and for 2002-2003" was vetoed by the governor September 28, 2001. Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1698a Repealed. 2001, Act 121, Eff. Oct. 1, 2001.**

**Compiler's note:** The repealed section pertained to collaborative efforts to provide curricular support to teachers.

### **388.1698b Freedom to learn program.**

Sec. 98b. (1) From the school aid stabilization fund created in section 11a, there is appropriated and allocated for 2003-2004 an amount not to exceed \$22,000,000.00 for the freedom to learn program described in this section. In addition, there is allocated for 2003-2004 the following federal funds:

(a) From the federal funds appropriated in section 11, an amount estimated at \$10,343,200.00 from the competitive grants of DED-OESE, title II, educational technology grants funds.

(b) An amount estimated at \$7,000,000.00 from funds carried forward from 2002-2003 from unexpended DED-OESE, title II, educational technology grants funds.

(2) The allocations in subsection (1) shall be used to develop, implement, and operate the freedom to learn program and make program grants. The goal of the program is to achieve one-to-one access to wireless technology for K-12 pupils through statewide and local public-private partnerships. To implement the program, the state education agency shall sign a memorandum of understanding with the Michigan virtual university that provides for joint administration of program grants under this subsection. By December 1, 2003, the Michigan virtual university and the state education agency shall make grants to districts as described in this section. In awarding the grants, the Michigan virtual university and the state education agency shall give priority to applications that demonstrate that the district's program will meet all of the following:

(a) Will be ready for implementation by January 1, 2004 and will have begun professional development on technology integration in the classroom before January 1, 2004.

(b) Will utilize state structure and resources for professional development, as coordinated by the Michigan virtual university.

(c) Will opt to participate in the statewide partnership described in subsection (6).

(3) The amount of program grants to districts is estimated at \$250.00 per pupil in membership in grade 6 in 2003-2004, or in another grade allowed in this section. The state education agency and the Michigan virtual university shall establish grant criteria that maximize the distribution of federal funds to achieve the \$250.00 per pupil in districts that qualify for federal funds. To qualify for a grant under this section, a district shall submit an application to the state education agency and the Michigan virtual university and complete the application process

established by the state education agency and the Michigan virtual university. The application shall include at least all of the following:

(a) If the district is applying for federal funds, how the district will meet the requirements of the competitive grants under DED-OESE, title II, part D.

(b) How the district will provide the opportunity for each pupil in membership in grade 6 to receive a wireless computing device. If the district has already achieved one-to-one wireless access in grade 6 or if the district's school building grade configuration makes implementation of the program for grade 6 impractical, the district may apply for a grant for the next highest grade. If the district does not have a grade 6 or higher, the district may apply for funding for the next lowest grade level. If the district operates 1 or more schools that are not meeting adequate yearly progress, as determined by the department, and that contain grade 6, the district may apply for funding for a school building-wide program for 1 or more of those schools. A public school academy that does not offer a grade higher than grade 5 may apply to receive a grant under this section for pupils in the highest grade offered by the public school academy.

(c) The district shall submit a plan describing the uses of the grant funds. The plan shall describe a plan for professional development on technology integration, content and curriculum, and local partnerships with the other districts and representatives from businesses, industry, and higher education. The plan shall include at least the following:

(i) The academic achievement goals, which may include, but are not limited to, goals related to mathematics, science, and language arts.

(ii) The engagement goals, which may include, but are not limited to, goals related to retention rates, dropout rates, detentions, and suspensions.

(iii) A commitment that at least 25% of the total local budget for the program will be used on professional development on technology integration in the classroom.

(d) A 3- to 5-year plan or funding model for increasing the share that is borne locally of the expenditures for one-to-one wireless access. The Michigan virtual university shall provide districts with sample local plans and funding models for the purposes of this subdivision and with information on available federal and private resources.

(e) How the district will amend its local technology plan as required under state and federal law to reflect the program under this section.

(4) A district that receives a grant under this section shall provide at least a \$25.00 per pupil match for grant money received under this section from local public or private resources.

(5) A district that received money under section 98 in 2002-2003 for a wireless technology grant is eligible to receive a grant under this section. The funding under subsection (1)(b) shall be used first to provide the grants under this subsection. A district described in this subsection shall apply to the Michigan virtual university and the state education agency for a grant in the form and manner prescribed by the department. An application under this section is not subject to the requirements of subsection (3) if the application demonstrates that the program will meet all of the following:

(a) Will continue as a demonstration program.

(b) Will provide regional assistance to schools that are not meeting adequate yearly progress, as determined by the department, and to new grant recipients, as directed by the state education agency and the Michigan virtual university.

(c) Will seek to expand its existing wireless technology initiatives.

(6) By October 15, 2003, the department of management and budget shall establish a statewide public-private partnership to implement the program. The department of management and budget shall select a program partner through a request for proposals process for a total learning technology package that includes, but is not limited to, a wireless laptop, software, professional development, service, and support, and for management by a single point of contact individual responsible for the overall implementation. The proposal selected shall achieve significant efficiencies and economies of scale and be interoperable with existing technologies. The private partner selected in the request for proposals process to partner with the state must possess all of the following:

(a) Experience in the development and successful implementation of large-scale, school-based wireless technology projects.

(b) Proven technical ability to deliver a total solutions package of learning technology for elementary and secondary students and teachers.

(c) Results-based education solutions to increase student achievement and advance professional development for teachers.

(d) Ability to coordinate, utilize, and expand existing technology infrastructures and professional development



delivery systems within school districts and regions.

(e) Ability to provide a wireless computing device that is able to be connected to the wireless network and is able to access a school's preexisting local network and the internet both wirelessly in the school and through dial-up or other remote connection from the home or elsewhere outside school.

(7) A district may elect to purchase or lease wireless computing devices from a vendor other than the statewide partnership described in subsection (6) if the Michigan virtual university determines that the vendor meets the requirements of subdivisions (a) to (d) of subsection (6) and the vendor is identified in the district's grant application.

(8) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding DED-OESE, title II, educational technology grants, as provided under this subsection. The Michigan virtual university shall coordinate activities described in this subsection with the freedom to learn grants described under this section. The memorandum of understanding shall require that the Michigan virtual university coordinate the following state activities related to DED-OESE, title II, educational technology grants in accordance with federal law:

(a) Assist in the development of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies.

(b) Establish and support public-private initiatives for the acquisition of educational technology for students in high-need districts.

(9) Funds allocated under this section that are not expended in the state fiscal year for which they were allocated may be carried forward to a subsequent state fiscal year.

(10) The state education agency and the Michigan virtual university shall complete the memoranda of understanding required under this section within 60 days after the effective date of the amendatory act that added this subsection. It is the intent of the legislature that all plans or applications submitted by the state education agency to the United States department of education relating to the distribution of federal funds under this section are for the purposes described in this section.

(11) The state education agency shall ensure that the program goals and plans for the freedom to learn program are contained in the state technology plan required by federal law.

(12) From the funds allocated under this section, an amount not to exceed \$4,000,000.00 is allocated to the Michigan virtual university to be used for statewide activities, as follows:

(a) An amount estimated at \$2,700,000.00 to develop a professional development network in partnership with other statewide entities for professional development on technology integration in the classroom.

(b) An amount estimated at \$250,000.00 for development of a content resource package that will include on-line coursework content.

(c) An amount estimated at \$250,000.00 to develop or purchase an on-line assessment system to supplement the Michigan education assessment program tests and provide immediate feedback on pupil achievement. The assessment system shall include high-quality tests aligned to the state curriculum framework and tests that can be customized by teachers and integrated with on-line instructional resources. The Michigan virtual university and the state education agency shall work in partnership with the department of treasury to implement the assessment program. The state education agency shall give first priority in implementing the assessment systems to districts not meeting adequately yearly progress requirements as established by the federal no child left behind act and to schools participating in grant programs under this section.

(d) An amount not to exceed \$800,000.00 for comprehensive statewide evaluation of current and future projects under this section and for statewide administration of the freedom to learn program.

(13) The Michigan virtual university is encouraged to work in partnership with Ferris state university in performing the functions under subsection (12).

(14) Notwithstanding section 17b, payments under this section may be made pursuant to an agreement with the department.

(15) It is the intent of the legislature that this state will seek to raise private funds for the current and future funding of the freedom to learn program under this section and all of the program components.

(16) As used in this section:

(a) "DED-OESE" means the United States department of education office of elementary and secondary education.

(b) "State education agency" means the department.

**History:** Add. 2003, Act 158, Imd. Eff. Aug. 11, 2003.

**Compiler's note:** Former § 388.1698b, which pertained to state cabinet on professional and technical standards, was repealed by Act 336 of

1993, Eff. Oct. 1, 1994.

### **388.1699 Mathematics and science centers.**

Sec. 99. (1) From the appropriations in section 11, there is allocated an amount not to exceed \$2,500,000.00 for 2003-2004 for implementing the comprehensive master plan for mathematics and science centers developed by the department and approved by the state board on August 8, 2002. In addition, from the federal funds appropriated in section 11, there is allocated an amount estimated at \$2,487,700.00 from DED-OESE, title II, mathematics and science partnership grants.

(2) Within a service area designated locally, approved by the department, and consistent with the master plan described in subsection (1), an established mathematics and science center shall address 4 or more of the following 6 basic services, as described in the master plan, to constituent districts and communities: leadership, pupil services, curriculum support, community involvement, professional development, and resource clearinghouse services.

(3) The department shall not award a state grant under this section to more than 1 mathematics and science center located in a designated region as prescribed in the 2002 master plan unless each of the grants serves a distinct target population or provides a service that does not duplicate another program in the designated region.

(4) As part of the technical assistance process, the department shall provide minimum standard guidelines that may be used by the mathematics and science center for providing fair access for qualified pupils and professional staff as prescribed in this section.

(5) Allocations under this section to support the activities and programs of mathematics and science centers shall be continuing support grants to all 33 established mathematics and science centers. Each established mathematics and science center that was funded in 2002-2003 shall receive state funding in an amount equal to 24.43% of the amount it received under this section for 2002-2003 in 2002 PA 521, before any reduction made for 2002-2003 under section 11(3).

(6) In order to receive state funds under this section, a grant recipient shall allow access for the department or the department's designee to audit all records related to the program for which it receives such funds. The grant recipient shall reimburse the state for all disallowances found in the audit.

(7) Not later than September 30, 2007, the department shall reevaluate and update the comprehensive master plan described in subsection (1), including any recommendations for upgrading satellite extensions to full centers.

(8) The department shall give preference in awarding the federal grants allocated in subsection (1) to eligible existing mathematics and science centers.

(9) In order to receive state funds under this section, a grant recipient shall provide at least a 10% local match from local public or private resources for the funds received under this section.

(10) As used in this section:

(a) "DED" means the United States department of education.

(b) "DED-OESE" means the DED office of elementary and secondary education.

**History:** Add. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1994, Act 360, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 24, Imd. Eff. June 16, 1997;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Subsections (5), (7), and (8), as amended by Act 300 of 1996, were vetoed by the governor on June 19, 1996. Subsections (7), (8), (9), and (10), as amended by Act 93 of 1997, were vetoed by the governor August 1, 1997.

In subsection (1), as amended by Act 121 of 2001, the phrases "and an amount not to exceed \$9,784,500.00 for 2002-2003" and "and an amount not to exceed \$596,000.00 for 2002-2003" were vetoed by the governor September 28, 2001.

In the first sentence of subsection (7), as amended by Act 121 of 2001, the phrase "and 2002-2003" was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1699a Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to school health education curriculum.

## ARTICLE 10

**388.1701 Eligibility to receive state aid; filing certified and sworn copy of enrollment; failure to file; withholding state aid; falsification; minimum hours of pupil instruction; forfeiture; certification; strikes or teachers' conferences; rules; hours not counted as pupil instruction; alternative scheduling program for pupils in kindergarten; certification of planned number of hours of pupil instruction; conditions requiring forfeiture; guidelines for providing minimum number of hours of instruction; application; waiver for alternative education program; counting professional development as pupil instruction.**

Sec. 101. (1) To be eligible to receive state aid under this act, not later than the fifth Wednesday after the pupil membership count day and not later than the fifth Wednesday after the supplemental count day, each district superintendent through the secretary of the district's board shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district as of the pupil membership count day and as of the supplemental count day, as applicable, for the current school year. In addition, a district maintaining school during the entire year, as provided under section 1561 of the revised school code, MCL 380.1561, shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district for the current school year pursuant to rules promulgated by the superintendent. Not later than the seventh Wednesday after the pupil membership count day and not later than the seventh Wednesday after the supplemental count day, the intermediate district shall transmit to the center the data filed by each of its constituent districts. If a district fails to file the sworn and certified copy with the intermediate superintendent in a timely manner, as required under this subsection, the intermediate district shall notify the department and state aid due to be distributed under this act shall be withheld from the defaulting district immediately, beginning with the next payment after the failure and continuing with each payment until the district complies with this subsection. If an intermediate district fails to transmit the data in its possession in a timely and accurate manner to the department, as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If a district or intermediate district does not comply with this subsection by the end of the fiscal year, the district or intermediate district forfeits the amount withheld. A person who willfully falsifies a figure or statement in the certified and sworn copy of enrollment shall be punished in the manner prescribed by section 161.

(2) To be eligible to receive state aid under this act, not later than the twenty-fourth Wednesday after the pupil membership count day and not later than the twenty-fourth Wednesday after the supplemental count day, an intermediate district shall submit to the center, in a form and manner prescribed by the center, the audited enrollment and attendance data for the pupils of its constituent districts and of the intermediate district. If an intermediate district fails to transmit the audited data as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If an intermediate district does not comply with this subsection by the end of the fiscal year, the intermediate district forfeits the amount withheld.

(3) Except as otherwise provided in this section, each district shall provide at least 1,098 hours of pupil instruction. Except as otherwise provided in this act, a district failing to comply with the required minimum hours of pupil instruction under this subsection shall forfeit from its total state aid allocation an amount determined by applying a ratio of the number of hours the district was in noncompliance in relation to the required minimum number of hours under this subsection. Not later than August 1, the board of each district shall certify to the department the number of hours of pupil instruction in the previous school year. If the district did not provide at least the required minimum number of hours of pupil instruction under this subsection, the deduction of state aid shall be made in the following fiscal year from the first payment of state school aid. A district is not subject to forfeiture of funds under this subsection for a fiscal year in which a forfeiture was already imposed under subsection (6). Hours lost because of strikes or teachers' conferences shall not be counted as days or hours of pupil instruction. A district not having at least 75% of the district's membership in attendance on any day of pupil instruction shall receive state aid in that proportion of 1/180 that the actual percent of attendance bears to the specified percentage. The superintendent shall promulgate rules for the implementation of this subsection.

(4) Except as otherwise provided in this subsection, the first 30 hours for which pupil instruction is not provided

because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as hours of pupil instruction. In addition, for 2003-2004 only, the department shall count as hours of pupil instruction not more than 20 additional hours for which pupil instruction was not provided in a school in a district due to structural roof and truss damage that required the school to be closed. Beginning in 2004-2005, the department shall count as hours of pupil instruction for a fiscal year not more than 30 additional hours for which pupil instruction is not provided in a district after April 1 of the applicable school year due to unusual and extenuating occurrences resulting from conditions not within the control of school authorities such as those conditions described in this subsection. Subsequent such hours shall not be counted as hours of pupil instruction.

(5) A district shall not forfeit part of its state aid appropriation because it adopts or has in existence an alternative scheduling program for pupils in kindergarten if the program provides at least the number of hours required under subsection (3) for a full-time equated membership for a pupil in kindergarten as provided under section 6(4).

(6) Not later than April 15 of each fiscal year, the board of each district shall certify to the department the planned number of hours of pupil instruction in the district for the school year ending in the fiscal year. In addition to any other penalty or forfeiture under this section, if at any time the department determines that 1 or more of the following has occurred in a district, the district shall forfeit in the current fiscal year beginning in the next payment to be calculated by the department a proportion of the funds due to the district under this act that is equal to the proportion below the required minimum number of hours of pupil instruction under subsection (3), as specified in the following:

(a) The district fails to operate its schools for at least the required minimum number of hours of pupil instruction under subsection (3) in a school year, including hours counted under subsection (4).

(b) The board of the district takes formal action not to operate its schools for at least the required minimum number of hours of pupil instruction under subsection (3) in a school year, including hours counted under subsection (4).

(7) In providing the minimum number of hours of pupil instruction required under subsection (3), a district shall use the following guidelines, and a district shall maintain records to substantiate its compliance with the following guidelines:

(a) Except as otherwise provided in this subsection, a pupil must be scheduled for at least the required minimum number of hours of instruction, excluding study halls, or at least the sum of 90 hours plus the required minimum number of hours of instruction, including up to 2 study halls.

(b) The time a pupil is assigned to any tutorial activity in a block schedule may be considered instructional time, unless that time is determined in an audit to be a study hall period.

(c) A pupil in grades 9 to 12 for whom a reduced schedule is determined to be in the individual pupil's best educational interest must be scheduled for a number of hours equal to at least 80% of the required minimum number of hours of pupil instruction to be considered a full-time equivalent pupil.

(d) If a pupil in grades 9 to 12 who is enrolled in a cooperative education program or a special education pupil cannot receive the required minimum number of hours of pupil instruction solely because of travel time between instructional sites during the school day, that travel time, up to a maximum of 3 hours per school week, shall be considered to be pupil instruction time for the purpose of determining whether the pupil is receiving the required minimum number of hours of pupil instruction. However, if a district demonstrates to the satisfaction of the department that the travel time limitation under this subdivision would create undue costs or hardship to the district, the department may consider more travel time to be pupil instruction time for this purpose.

(8) The department shall apply the guidelines under subsection (7) in calculating the full-time equivalency of pupils.

(9) Upon application by the district for a particular fiscal year, the superintendent may waive for a district the minimum number of hours of pupil instruction requirement of subsection (3) for a department-approved alternative education program. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, for the fiscal year covered by the waiver the district is not subject to forfeiture under this section for the specific program covered by the waiver.

(10) A district may count up to 51 hours of professional development for teachers, including the 5 hours of online professional development provided by the Michigan virtual university under section 98, as hours of pupil instruction. A district that elects to use this exception shall notify the department of its election.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1986, Act 298, Imd. Eff. Dec. 22, 1986;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 142, Imd. Eff. July 15,

## THE STATE SCHOOL AID ACT OF 1979

1992;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Imd. Eff. June 30, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 476, Imd. Eff. June 27, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003;—Am. 2004, Act 127, Imd. Eff. June 3, 2004.

**Compiler's note:** The last sentence of subsection (4), as amended by Act 180 of 1996, which provided "However, for 1995-96 only, for a school district at or above townline 16, the first 5 days for which pupil instruction is not provided because of conditions described in this subsection shall be counted as days of pupil instruction." was vetoed by the governor on April 22, 1996.

**Administrative rules:** R 340.1 et seq. of the Michigan Administrative Code.

### **388.1701a Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to extended school year.

### **388.1702 Deficit budget or operating deficit prohibited; release of state aid payments; report; amount of permissible deficit; monthly monitoring report; plan to eliminate deficit; district considered to have incurred deficit.**

Sec. 102. (1) A district or intermediate district receiving money under this act shall not adopt or operate under a deficit budget, and a district or intermediate district shall not incur an operating deficit in a fund during a school fiscal year. A district or intermediate district having an existing deficit or which incurs a deficit shall not be allotted or paid a further sum under this act until the district or intermediate district submits to the department for approval a budget for the current school fiscal year and a plan to eliminate the district's or intermediate district's deficit not later than the end of the second school fiscal year after the deficit was incurred. Withheld state aid payments shall be released after the department approves the deficit reduction plan and ensures that the budget for the current school fiscal year is balanced.

(2) Not later than March 1 of each year, the department shall prepare a report of deficits incurred by districts and intermediate districts in the immediately preceding fiscal year and the progress made in reducing those deficits and submit the report to the standing committees of the legislature responsible for K-12 education legislation, the appropriations subcommittees of the legislature responsible for K-12 education appropriations, the house and senate fiscal agencies, the state treasurer, and the state budget director. The department shall also submit interim reports concerning district and intermediate district deficits as necessary.

(3) The amount of the permissible deficit for each school fiscal year shall not exceed the amount of state aid reduced by an executive order during that school fiscal year.

(4) A district or intermediate district with an existing deficit or which incurs a deficit shall submit to the department a monthly monitoring report on revenue and expenditures in a form and manner prescribed by the department.

(5) If a district or intermediate district is not able to comply with the provisions of this section, the district or intermediate district shall submit to the department a plan to eliminate its deficit. Upon approval of the plan submitted, the superintendent of public instruction may continue allotment and payment of funds under this act, extend the period of time in which a district or intermediate district has to eliminate its deficit, and set special conditions that the district or intermediate district must meet during the period of the extension.

(6) For the purposes of this section, a district or intermediate district is considered to have incurred an operating deficit if the district or intermediate district incurs any withholding of or financial penalty, other than a temporary delay, against any portion of its total state school aid allocation under this act.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1979, Act 138, Imd. Eff. Nov. 7, 1979;—Am. 1980, Act 52, Imd. Eff. Mar. 27, 1980;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1981, Act 36, Eff. Oct. 1, 1981;—Am. 1982, Act 136, Imd. Eff. Apr. 27, 1982;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 55, Imd. Eff. May 16, 1983;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

### **388.1703 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to pupil to teacher ratio.

### **388.1704 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to student portfolios.

### **388.1704a State assessments to high school pupils.**

Sec. 104a. (1) In order to receive state aid under this act, a district shall comply with this section and shall



administer state assessments to high school pupils in the subject areas of communications skills, mathematics, science, and social studies. If the department of treasury or the Michigan assessment governing board, as applicable, determines that it would be consistent with the purposes of this section, the department of treasury or the Michigan assessment governing board, as applicable, may designate the grade 11 Michigan education assessment program tests or the ACT/ACT work keys tests as the assessments to be used for the purposes of this section. The district shall include on the pupil's high school transcript all of the following:

(a) For each high school graduate who has completed a subject area assessment under this section, the pupil's scaled score on the assessment.

(b) If the pupil's scaled score on a subject area assessment falls within the range required under subsection (2) for a category established under subsection (2), an indication that the pupil has achieved state endorsement for that subject area.

(c) The number of school days the pupil was in attendance at school each school year during high school and the total number of school days in session for each of those school years.

(2) The department of treasury shall develop scaled scores for reporting subject area assessment results for each of the subject areas under this section. The department of treasury shall establish 3 categories for each subject area indicating basic competency, above average, and outstanding, and shall establish the scaled score range required for each category. The department of treasury shall design and distribute to districts, intermediate districts, and nonpublic schools a simple and concise document that describes these categories in each subject area and indicates the scaled score ranges for each category in each subject area. A district may award a high school diploma to a pupil who successfully completes local district requirements established in accordance with state law for high school graduation, regardless of whether the pupil is eligible for any state endorsement.

(3) The assessments administered for the purposes of this section shall be administered to pupils during the last 30 school days of grade 11. The department of treasury shall ensure that the assessments are scored and the scores are returned to pupils, their parents or legal guardians, and districts not later than the beginning of the pupil's first semester of grade 12. The department of treasury shall arrange for those portions of a pupil's assessment that cannot be scored mechanically to be scored in Michigan by persons who are Michigan teachers, retired Michigan teachers, or Michigan school administrators and who have been trained in scoring the assessments. The returned scores shall indicate the pupil's scaled score for each subject area assessment, the range of scaled scores for each subject area, and the range of scaled scores required for each category established under subsection (2). In reporting the scores to pupils, parents, and schools, the department of treasury shall provide specific, meaningful, and timely feedback on the pupil's performance on the assessment.

(4) For each pupil who does not achieve state endorsement in 1 or more subject areas, the board of the district in which the pupil is enrolled shall provide that there be at least 1 meeting attended by at least the pupil and a member of the district's staff or a local or intermediate district consultant who is proficient in the measurement and evaluation of pupils. The district may provide the meeting as a group meeting for pupils in similar circumstances. If the pupil is a minor, the district shall invite and encourage the pupil's parent, legal guardian, or person in loco parentis to attend the meeting and shall mail a notice of the meeting to the pupil's parent, legal guardian, or person in loco parentis. The purpose of this meeting and any subsequent meeting under this subsection shall be to determine an educational program for the pupil designed to have the pupil achieve state endorsement in each subject area in which he or she did not achieve state endorsement. In addition, a district may provide for subsequent meetings with the pupil conducted by a high school counselor or teacher designated by the pupil's high school principal, and shall invite and encourage the pupil's parent, legal guardian, or person in loco parentis to attend the subsequent meetings. The district shall provide special programs for the pupil or develop a program using the educational programs regularly provided by the district unless the board of the district decides otherwise and publishes and explains its decision in a public justification report.

(5) A pupil who wants to repeat an assessment administered under this section may repeat the assessment, without charge to the pupil, in the next school year or after graduation. An individual may repeat an assessment at any time the district administers an applicable assessment instrument or during a retesting period under subsection (7).

(6) The department of treasury shall ensure that the length of the assessments used for the purposes of this section and the combined total time necessary to administer all of the assessments are the shortest possible that will still maintain the degree of reliability and validity of the assessment results determined necessary by the department of treasury. The department of treasury shall ensure that the maximum total combined length of time that schools are required to set aside for administration of all of the assessments used for the purposes of this section does not exceed 8 hours. However, this subsection does not limit the amount of time that individuals may have to complete

the assessments.

(7) The department of treasury shall establish, schedule, and arrange periodic retesting periods throughout the year for individuals who desire to repeat an assessment under this section. The department of treasury shall coordinate the arrangements for administering the repeat assessments and shall ensure that the retesting is made available at least within each intermediate district and, to the extent possible, within each district.

(8) A district shall provide accommodations to a pupil with disabilities for the assessments required under this section, as provided under section 504 of title V of the rehabilitation act of 1973, Public Law 93-112, 29 U.S.C. 794; subtitle A of title II of the Americans with disabilities act of 1990, Public Law 101-336, 42 U.S.C. 12131 to 12134; and the implementing regulations for those statutes.

(9) For the purposes of this section, the department of treasury shall develop or select and approve assessment instruments to measure pupil performance in communications skills, mathematics, social studies, and science. Unless the department of treasury selects and approves the ACT/ACT work keys tests, the assessment instruments shall be based on the model core academic content standards objectives under section 1278 of the revised school code, MCL 380.1278.

(10) Upon written request by the pupil's parent or legal guardian stating that the request is being made for the purpose of providing the pupil with an opportunity to qualify to take 1 or more postsecondary courses as an eligible student under the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524, the board of a district shall allow a pupil who is in at least grade 10 to take an assessment administered under this section without charge at any time the district regularly administers the assessment or during a retesting period established under subsection (7). A district is not required to include in an annual education report, or in any other report submitted to the department of treasury for accreditation purposes, results of assessments taken under this subsection by a pupil in grade 11 or lower until the results of that pupil's graduating class are otherwise reported.

(11) All assessment instruments developed or selected and approved by the state under any statute or rule for a purpose related to K to 12 education shall be objective-oriented and consistent with the model core academic content standards objectives under section 1278 of the revised school code, MCL 380.1278.

(12) A person who has graduated from high school after 1996 and who has not previously taken an assessment under this section may take an assessment used for the purposes of this section, without charge to the person, at the district from which he or she graduated from high school at any time that district administers the assessment or during a retesting period scheduled under subsection (7) and have his or her scaled score on the assessment included on his or her high school transcript. If the person's scaled score on a subject area assessment falls within the range required under subsection (2) for a category established under subsection (2), the district shall also indicate on the person's high school transcript that the person has achieved state endorsement for that subject area.

(13) A child who is a student in a nonpublic school or home school may take an assessment under this section. To take an assessment, a child who is a student in a home school shall contact the district in which the child resides, and that district shall administer the assessment, or the child may take the assessment at a nonpublic school if allowed by the nonpublic school. Upon request from a nonpublic school, the department of treasury shall supply assessments and the nonpublic school may administer the assessment.

(14) The purpose of the assessment under this section is to assess pupil performance in mathematics, science, social studies, and communication arts for the purpose of improving academic achievement and establishing a statewide standard of competency. The assessment under this section provides a common measure of data that will contribute to the improvement of Michigan schools' curriculum and instruction by encouraging alignment with Michigan's curriculum framework standards. These standards are based upon the expectations of what pupils should know and be able to do by the end of grade 11.

(15) If the Michigan assessment governing board is established by law, the Michigan assessment governing board shall administer this section and shall have all of the powers and duties as otherwise provided under this section for the department of treasury.

(16) As used in this section:

(a) "Communications skills" means reading and writing.

(b) "Social studies" means geography, history, economics, and American government.

**History:** Add. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Mar. 15, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 161, Eff. July 1, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 24, Imd. Eff. June 16, 1997;—Am. 1997, Act 176, Imd. Eff. Dec. 30, 1997;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327,

## THE STATE SCHOOL AID ACT OF 1979

MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1705 Counting nonresident pupils in membership; application and enrollment; procedures.**

Sec. 105. (1) In order to avoid a penalty under this section, and in order to count a nonresident pupil residing within the same intermediate district in membership without the approval of the pupil's district of residence, a district shall comply with this section.

(2) Except as otherwise provided in this section, a district shall determine whether or not it will accept applications for enrollment by nonresident applicants residing within the same intermediate district for the next school year. If the district determines to accept applications for enrollment of a number of nonresidents, beyond those entitled to preference under this section, the district shall use the following procedures for accepting applications from and enrolling nonresidents:

(a) The district shall publish the grades, schools, and special programs, if any, for which enrollment may be available to, and for which applications will be accepted from, nonresident applicants residing within the same intermediate district.

(b) If the district has a limited number of positions available for nonresidents residing within the same intermediate district in a grade, school, or program, all of the following apply to accepting applications for and enrollment of nonresidents in that grade, school, or program:

(i) The district shall do all of the following not later than the second Friday in August:

(A) Provide notice to the general public that applications will be taken for a 15-day period from nonresidents residing within the same intermediate district for enrollment in that grade, school, or program. The notice shall identify the 15-day period and the place and manner for submitting applications.

(B) During the application period under sub-subparagraph (A), accept applications from nonresidents residing within the same intermediate district for enrollment in that grade, school, or program.

(C) Within 15 days after the end of the application period under sub-subparagraph (A), using the procedures and preferences required under this section, determine which nonresident applicants will be allowed to enroll in that grade, school, or program, using the random draw system required under subsection (13) as necessary, and notify the parent or legal guardian of each nonresident applicant of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(ii) Beginning on the third Monday in August and not later than the end of the first week of school, if any positions become available in a grade, school, or program due to accepted applicants failing to enroll or to more positions being added, the district may enroll nonresident applicants from the waiting list maintained under subsection (13), offering enrollment in the order that applicants appear on the waiting list. If there are still positions available after enrolling all applicants from the waiting list who desire to enroll, the district may not fill those positions until the second semester enrollment under subsection (3), as provided under that subsection, or until the next school year.

(c) For a grade, school, or program that has an unlimited number of positions available for nonresidents residing within the same intermediate district, all of the following apply to enrollment of nonresidents in that grade, school, or program:

(i) The district may accept applications for enrollment in that grade, school, or program, and may enroll nonresidents residing within the same intermediate district in that grade, school, or program, until the end of the first week of school. The district shall provide notice to the general public of the place and manner for submitting applications and, if the district has a limited application period, the notice shall include the dates of the application period. The application period shall be at least a 15-day period.

(ii) Not later than the end of the first week of school, the district shall notify the parent or legal guardian of each nonresident applicant who is accepted for enrollment that the applicant has been accepted for enrollment in the grade, school, or program and of the date by which the applicant must enroll in the district and the procedures for enrollment.

(3) If a district determines during the first semester of a school year that it has positions available for enrollment of a number of nonresidents residing within the same intermediate district, beyond those entitled to preference under this section, for the second semester of the school year, the district may accept applications from and enroll

nonresidents residing within the same intermediate district for the second semester using the following procedures:

(a) Not later than 2 weeks before the end of the first semester, the district shall publish the grades, schools, and special programs, if any, for which enrollment for the second semester may be available to, and for which applications will be accepted from, nonresident applicants residing within the same intermediate district.

(b) During the last 2 weeks of the first semester, the district shall accept applications from nonresidents residing within the same intermediate district for enrollment for the second semester in the available grades, schools, and programs.

(c) By the beginning of the second semester, using the procedures and preferences required under this section, the district shall determine which nonresident applicants will be allowed to enroll in the district for the second semester and notify the parent or legal guardian of each nonresident applicant residing within the same intermediate district of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(4) If deadlines similar to those described in subsection (2) or (3) have been established in an intermediate district, and if those deadlines are not later than the deadlines under subsection (2) or (3), the districts within the intermediate district may use those deadlines.

(5) A district offering to enroll nonresident applicants residing within the same intermediate district may limit the number of nonresident pupils it accepts in a grade, school, or program, at its discretion, and may use that limit as the reason for refusal to enroll an applicant.

(6) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based on intellectual, academic, artistic, or other ability, talent, or accomplishment, or lack thereof, or based on a mental or physical disability, except that a district may refuse to admit a nonresident applicant if the applicant does not meet the same criteria, other than residence, that an applicant who is a resident of the district must meet to be accepted for enrollment in a grade or a specialized, magnet, or intra-district choice school or program to which the applicant applies.

(7) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based on age, except that a district may refuse to admit a nonresident applicant applying for a program that is not appropriate for the age of the applicant.

(8) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based upon religion, race, color, national origin, sex, height, weight, marital status, or athletic ability, or, generally, in violation of any state or federal law prohibiting discrimination.

(9) A district may refuse to enroll a nonresident applicant if the applicant is, or has been within the preceding 2 years, suspended from another school or if the applicant has ever been expelled from another school.

(10) A district shall continue to allow a pupil who was enrolled in and attended the district under this section in the school year or semester immediately preceding the school year or semester in question to enroll in the district until the pupil graduates from high school. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(11) A district shall give preference for enrollment under this section over all other nonresident applicants residing within the same intermediate district to other school-age children who reside in the same household as a pupil described in subsection (10).

(12) If a nonresident pupil was enrolled in and attending school in a district as a nonresident pupil in the 1995-96 school year and continues to be enrolled continuously each school year in that district, the district shall allow that nonresident pupil to continue to enroll in and attend school in the district until high school graduation, without requiring the nonresident pupil to apply for enrollment under this section. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(13) If the number of qualified nonresident applicants eligible for acceptance in a school, grade, or program does not exceed the positions available for nonresident pupils in the school, grade, or program, the school district shall accept for enrollment all of the qualified nonresident applicants eligible for acceptance. If the number of qualified nonresident applicants residing within the same intermediate district eligible for acceptance exceeds the positions available in a grade, school, or program in a district for nonresident pupils, the district shall use a random draw system, subject to the need to abide by state and federal antidiscrimination laws and court orders and subject to preferences allowed by this section. The district shall develop and maintain a waiting list based on the order in which nonresident applicants were drawn under this random draw system.

(14) If a district, or the nonresident applicant, requests the district in which a nonresident applicant resides to supply information needed by the district for evaluating the applicant's application for enrollment or for enrolling

the applicant, the district of residence shall provide that information on a timely basis.

(15) If a district is subject to a court-ordered desegregation plan, and if the court issues an order prohibiting pupils residing in that district from enrolling in another district or prohibiting pupils residing in another district from enrolling in that district, this section is subject to the court order.

(16) This section does not require a district to provide transportation for a nonresident pupil enrolled in the district under this section or for a resident pupil enrolled in another district under this section. However, at the time a nonresident pupil enrolls in the district, a district shall provide to the pupil's parent or legal guardian information on available transportation to and from the school in which the pupil enrolls.

(17) A district may participate in a cooperative education program with 1 or more other districts or intermediate districts whether or not the district enrolls any nonresidents pursuant to this section.

(18) A district that, pursuant to this section, enrolls a nonresident pupil who is eligible for special education programs and services according to statute or rule, or who is a child with disabilities, as defined under the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1400 to 1420, 1431 to 1461, and 1471 to 1487, shall be considered to be the resident district of the pupil for the purpose of providing the pupil with a free appropriate public education. Consistent with state and federal law, that district is responsible for developing and implementing an individualized education plan annually for a nonresident pupil described in this subsection.

(19) If a district does not comply with this section, the district forfeits 5% of the total state school aid allocation to the district under this act.

(20) Upon application by a district, the superintendent may grant a waiver for the district from a specific requirement under this section for not more than 1 year.

**History:** Add. 1996, Act 300, Imd. Eff. June 19, 1996;—Am. 1998, Act 553, Imd. Eff. Jan. 27, 1999;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Former § 388.1705, which pertained to age of pupils counted in membership, was repealed by Act 175 of 1993, Eff. Oct. 1, 1993.

### **388.1705a Counting nonresident pupils in membership; applicability to district not operating all of grades K to 12.**

Sec. 105a. Section 105(16) does not apply to a pupil residing in a district that does not operate all of grades K to 12 who is enrolled in a district other than the district of residence in a grade that is not operated by the district of residence.

**History:** Add. 1997, Act 24, Imd. Eff. June 16, 1997.

**Compiler's note:** Former § 388.1705a, which pertained to eligible applicant districts, was repealed by Act 336 of 1993, Eff. Oct. 1, 1994.

### **388.1705b Intermediate district operating under pilot schools of choice program.**

Sec. 105b. If an intermediate district is operating under an intermediate district pilot schools of choice program established under former section 91 or as described in section 91a, the intermediate district and its constituent districts are exempt from section 105.

**History:** Add. 1997, Act 24, Imd. Eff. June 16, 1997;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

### **388.1705c Enrollment by nonresident applicants residing in district located in a contiguous intermediate district.**

Sec. 105c. (1) In order to avoid a penalty under this section, and in order to count a nonresident pupil residing in a district located in a contiguous intermediate district in membership without the approval of the pupil's district of residence, a district shall comply with this section.

(2) Except as otherwise provided in this section, a district shall determine whether or not it will accept applications for enrollment by nonresident applicants residing in a district located in a contiguous intermediate district for the next school year. If the district determines to accept applications for enrollment of a number of nonresidents under this section, beyond those entitled to preference under this section, the district shall use the following procedures for accepting applications from and enrolling nonresidents under this section:

(a) The district shall publish the grades, schools, and special programs, if any, for which enrollment may be available to, and for which applications will be accepted from, nonresident applicants residing in a district located in a contiguous intermediate district.

(b) If the district has a limited number of positions available for nonresidents residing in a district located in a contiguous intermediate district in a grade, school, or program, all of the following apply to accepting applications



for and enrollment of nonresidents under this section in that grade, school, or program:

(i) The district shall do all of the following not later than the second Friday in August:

(A) Provide notice to the general public that applications will be taken for a 15-day period from nonresidents residing in a district located in a contiguous intermediate district for enrollment in that grade, school, or program. The notice shall identify the 15-day period and the place and manner for submitting applications.

(B) During the application period under sub-subparagraph (A), accept applications from nonresidents residing in a district located in a contiguous intermediate district for enrollment in that grade, school, or program.

(C) Within 15 days after the end of the application period under sub-subparagraph (A), using the procedures and preferences required under this section, determine which nonresident applicants will be allowed to enroll under this section in that grade, school, or program, using the random draw system required under subsection (13) as necessary, and notify the parent or legal guardian of each nonresident applicant of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment under this section shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(ii) Beginning on the third Monday in August and not later than the end of the first week of school, if any positions become available in a grade, school, or program due to accepted applicants failing to enroll or to more positions being added, the district may enroll nonresident applicants from the waiting list maintained under subsection (13), offering enrollment in the order that applicants appear on the waiting list. If there are still positions available after enrolling all applicants from the waiting list who desire to enroll, the district may not fill those positions until the second semester enrollment under subsection (3), as provided under that subsection, or until the next school year.

(c) For a grade, school, or program that has an unlimited number of positions available for nonresidents residing in a district located in a contiguous intermediate district, all of the following apply to enrollment of nonresidents in that grade, school, or program under this section:

(i) The district may accept applications for enrollment in that grade, school, or program, and may enroll nonresidents residing in a district located in a contiguous intermediate district in that grade, school, or program, until the end of the first week of school. The district shall provide notice to the general public of the place and manner for submitting applications and, if the district has a limited application period, the notice shall include the dates of the application period. The application period shall be at least a 15-day period.

(ii) Not later than the end of the first week of school, the district shall notify the parent or legal guardian of each nonresident applicant who is accepted for enrollment under this section that the applicant has been accepted for enrollment in the grade, school, or program and of the date by which the applicant must enroll in the district and the procedures for enrollment.

(3) If a district determines during the first semester of a school year that it has positions available for enrollment of a number of nonresidents residing in a district located in a contiguous intermediate district, beyond those entitled to preference under this section, for the second semester of the school year, the district may accept applications from and enroll nonresidents residing in a district located in a contiguous intermediate district for the second semester using the following procedures:

(a) Not later than 2 weeks before the end of the first semester, the district shall publish the grades, schools, and special programs, if any, for which enrollment for the second semester may be available to, and for which applications will be accepted from, nonresident applicants residing in a district located in a contiguous intermediate district.

(b) During the last 2 weeks of the first semester, the district shall accept applications from nonresidents residing in a district located in a contiguous intermediate district for enrollment for the second semester in the available grades, schools, and programs.

(c) By the beginning of the second semester, using the procedures and preferences required under this section, the district shall determine which nonresident applicants will be allowed to enroll under this section in the district for the second semester and notify the parent or legal guardian of each nonresident applicant residing in a district located in a contiguous intermediate district of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(4) If deadlines similar to those described in subsection (2) or (3) have been established in an intermediate district, and if those deadlines are not later than the deadlines under subsection (2) or (3), the districts within the intermediate district may use those deadlines.

(5) A district offering to enroll nonresident applicants residing in a district located in a contiguous intermediate

district may limit the number of those nonresident pupils it accepts in a grade, school, or program, at its discretion, and may use that limit as the reason for refusal to enroll an applicant under this section.

(6) A nonresident applicant residing in a district located in a contiguous intermediate district shall not be granted or refused enrollment based on intellectual, academic, artistic, or other ability, talent, or accomplishment, or lack thereof, or based on a mental or physical disability, except that a district may refuse to admit a nonresident applicant under this section if the applicant does not meet the same criteria, other than residence, that an applicant who is a resident of the district must meet to be accepted for enrollment in a grade or a specialized, magnet, or intra-district choice school or program to which the applicant applies.

(7) A nonresident applicant residing in a district located in a contiguous intermediate district shall not be granted or refused enrollment under this section based on age, except that a district may refuse to admit a nonresident applicant applying for a program that is not appropriate for the age of the applicant.

(8) A nonresident applicant residing in a district located in a contiguous intermediate district shall not be granted or refused enrollment under this section based upon religion, race, color, national origin, sex, height, weight, marital status, or athletic ability, or, generally, in violation of any state or federal law prohibiting discrimination.

(9) A district may refuse to enroll a nonresident applicant under this section if the applicant is, or has been within the preceding 2 years, suspended from another school or if the applicant has ever been expelled from another school.

(10) A district shall continue to allow a pupil who was enrolled in and attended the district under this section in the school year or semester immediately preceding the school year or semester in question to enroll in the district until the pupil graduates from high school. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(11) A district shall give preference for enrollment under this section over all other nonresident applicants residing in a district located in a contiguous intermediate district to other school-age children who reside in the same household as a pupil described in subsection (10).

(12) If a nonresident pupil was enrolled in and attending school in a district as a nonresident pupil in the 1995-96 school year and continues to be enrolled continuously each school year in that district, the district shall allow that nonresident pupil to continue to enroll in and attend school in the district until high school graduation, without requiring the nonresident pupil to apply for enrollment under this section. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(13) If the number of qualified nonresident applicants eligible for acceptance under this section in a school, grade, or program does not exceed the positions available for nonresident pupils under this section in the school, grade, or program, the school district shall accept for enrollment all of the qualified nonresident applicants eligible for acceptance. If the number of qualified nonresident applicants residing in a district located in a contiguous intermediate district eligible for acceptance under this section exceeds the positions available in a grade, school, or program in a district for nonresident pupils, the district shall use a random draw system, subject to the need to abide by state and federal antidiscrimination laws and court orders and subject to preferences allowed by this section. The district shall develop and maintain a waiting list based on the order in which nonresident applicants were drawn under this random draw system.

(14) If a district, or the nonresident applicant, requests the district in which a nonresident applicant resides to supply information needed by the district for evaluating the applicant's application for enrollment or for enrolling the applicant under this section, the district of residence shall provide that information on a timely basis.

(15) If a district is subject to a court-ordered desegregation plan, and if the court issues an order prohibiting pupils residing in that district from enrolling in another district or prohibiting pupils residing in another district from enrolling in that district, this section is subject to the court order.

(16) This section does not require a district to provide transportation for a nonresident pupil enrolled in the district under this section or for a resident pupil enrolled in another district under this section. However, at the time a nonresident pupil enrolls in the district, a district shall provide to the pupil's parent or legal guardian information on available transportation to and from the school in which the pupil enrolls.

(17) A district may participate in a cooperative education program with 1 or more other districts or intermediate districts whether or not the district enrolls any nonresidents pursuant to this section.

(18) In order for a district or intermediate district to enroll pursuant to this section a nonresident pupil who resides in a district located in a contiguous intermediate district and who is eligible for special education programs and services according to statute or rule, or who is a child with disabilities, as defined under the individuals with disabilities education act, title VI of Public Law 91-230, the enrolling district shall have a written agreement with the resident district of the pupil for the purpose of providing the pupil with a free appropriate public education. The

written agreement shall include, but is not limited to, an agreement on the responsibility for the payment of the added costs of special education programs and services for the pupil.

(19) If a district does not comply with this section, the district forfeits 5% of the total state school aid allocation to the district under this act.

(20) Upon application by a district, the superintendent may grant a waiver for the district from a specific requirement under this section for not more than 1 year.

(21) This section is repealed if the final decision of a court of competent jurisdiction holds that any portion of this section is unconstitutional, ineffective, invalid, or in violation of federal law.

(22) As used in this section, "district located in a contiguous intermediate district" means a district located in an intermediate district that is contiguous to the intermediate district in which a pupil's district of residence is located.

**History:** Add. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

### **388.1706 Pupils not counted in membership.**

Sec. 106. A pupil enrolled in a public school program organized under federal or state supervision and in which the teaching costs are fully subsidized from federal or state funds shall not be counted in membership.

**History:** 1979, Act 94, Eff. Oct. 1, 1979.

### **388.1707 Allocation for adult education programs.**

Sec. 107. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$20,000,000.00 for 2003-2004 for adult education programs authorized under this section.

(2) To be eligible to be a participant funded under this section, a person shall be enrolled in an adult basic education program, an adult English as a second language program, a general education development (G.E.D.) test preparation program, a job or employment related program, or a high school completion program, that meets the requirements of this section, and shall meet either of the following, as applicable:

(a) If the individual has obtained a high school diploma or a general education development (G.E.D.) certificate, the individual meets 1 of the following:

(i) Is less than 20 years of age on September 1 of the school year and is enrolled in the state technical institute and rehabilitation center.

(ii) Is less than 20 years of age on September 1 of the school year, is not attending an institution of higher education, and is enrolled in a job or employment-related program through a referral by an employer.

(iii) Is enrolled in an English as a second language program.

(iv) Is enrolled in a high school completion program.

(b) If the individual has not obtained a high school diploma or G.E.D. certificate, the individual meets 1 of the following:

(i) Is at least 20 years of age on September 1 of the school year.

(ii) Is at least 16 years of age on September 1 of the school year, has been permanently expelled from school under section 1311(2) or 1311a of the revised school code, MCL 380.1311 and 380.1311a, and has no appropriate alternative education program available through his or her district of residence.

(3) Except as otherwise provided in subsection (4), the amount allocated under subsection (1) shall be distributed as follows:

(a) For districts and consortia that received payments for 2001-2002 under this section, the amount allocated to each for 2003-2004 shall be based on the number of participants served by the district or consortium for 2003-2004, using the amount allocated per full-time equated participant under subsection (5), up to a maximum total allocation under this section in an amount equal to 26.67% of the amount the district or consortium received for 2001-2002 under this section before any reallocations made for 2001-2002 under subsection (4).

(b) A district or consortium that received funding in 2002-2003 under this section may operate independently of a consortium or join or form a consortium for 2003-2004. The allocation for 2003-2004 to the district or the newly formed consortium under this subsection shall be determined by the department of career development and shall be based on the proportion of the amounts that are attributable to the district or consortium that received funding in 2002-2003. A district or consortium described in this subdivision shall notify the department of career development of its intention with regard to 2003-2004 by October 1, 2003.

(4) A district that operated an adult education program in 2002-2003 and does not intend to operate a program in 2003-2004 shall notify the department of career development by October 1, 2003 of its intention. The funds intended to be allocated under this section to a district that does not operate a program in 2003-2004 and the unspent funds originally allocated under this section to a district or consortium that subsequently operates a

program at less than the level of funding allocated under subsection (3) shall instead be proportionately reallocated to the other districts described in subsection (3)(a) that are operating an adult education program in 2003-2004 under this section.

(5) The amount allocated under this section per full-time equated participant is \$2,850.00 for a 450-hour program. The amount shall be proportionately reduced for a program offering less than 450 hours of instruction.

(6) An adult basic education program or an adult English as a second language program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who are determined by an appropriate assessment to be below ninth grade level in reading or mathematics, or both, or to lack basic English proficiency.

(b) The program tests individuals for eligibility under subdivision (a) before enrollment and tests participants to determine progress after every 90 hours of attendance, using assessment instruments approved by the department of career development.

(c) A participant in an adult basic education program is eligible for reimbursement until 1 of the following occurs:

(i) The participant's reading and mathematics proficiency are assessed at or above the ninth grade level.

(ii) The participant fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction.

(d) A funding recipient enrolling a participant in an English as a second language program is eligible for funding according to subsection (10) until the participant meets 1 of the following:

(i) The participant is assessed as having attained basic English proficiency.

(ii) The participant fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction. The department of career development shall provide information to a funding recipient regarding appropriate assessment instruments for this program.

(7) A general education development (G.E.D.) test preparation program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who do not have a high school diploma.

(b) The program shall administer a G.E.D. pre-test approved by the department of career development before enrolling an individual to determine the individual's potential for success on the G.E.D. test, and shall administer other tests after every 90 hours of attendance to determine a participant's readiness to take the G.E.D. test.

(c) A funding recipient shall receive funding according to subsection (10) for a participant, and a participant may be enrolled in the program until 1 of the following occurs:

(i) The participant passes the G.E.D. test.

(ii) The participant fails to show progress on 2 successive tests used to determine readiness to take the G.E.D. test after having completed at least 450 hours of instruction.

(8) A high school completion program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who do not have a high school diploma.

(b) A funding recipient shall receive funding according to subsection (10) for a participant in a course offered under this subsection until 1 of the following occurs:

(i) The participant passes the course and earns a high school diploma.

(ii) The participant fails to earn credit in 2 successive semesters or terms in which the participant is enrolled after having completed at least 900 hours of instruction.

(9) A job or employment-related adult education program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults referred by their employer who are less than 20 years of age, have a high school diploma, are determined to be in need of remedial mathematics or communication arts skills and are not attending an institution of higher education.

(b) An individual may be enrolled in this program and the grant recipient shall receive funding according to subsection (10) until 1 of the following occurs:

(i) The individual achieves the requisite skills as determined by appropriate assessment instruments administered at least after every 90 hours of attendance.

(ii) The individual fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction. The department of career development shall provide information to a funding recipient regarding appropriate assessment instruments for this program.

(10) A funding recipient shall receive payments under this section in accordance with the following:

(a) Ninety percent for enrollment of eligible participants.

(b) Ten percent for completion of the adult basic education objectives by achieving an increase of at least 1 grade level of proficiency in reading or mathematics; for achieving basic English proficiency; for passage of the G.E.D. test; for passage of a course required for a participant to attain a high school diploma; or for completion of the course and demonstrated proficiency in the academic skills to be learned in the course, as applicable.

(11) As used in this section, "participant" means the sum of the number of full-time equated individuals enrolled in and attending a department-approved adult education program under this section, using quarterly participant count days on the schedule described in section 6(7)(b).

(12) A person who is not eligible to be a participant funded under this section may receive adult education services upon the payment of tuition. In addition, a person who is not eligible to be served in a program under this section due to the program limitations specified in subsection (6), (7), (8), or (9) may continue to receive adult education services in that program upon the payment of tuition. The tuition level shall be determined by the local or intermediate district conducting the program.

(13) An individual who is an inmate in a state correctional facility shall not be counted as a participant under this section.

(14) A district shall not commingle money received under this section or from another source for adult education purposes with any other funds of the district. A district receiving adult education funds shall establish a separate ledger account for those funds. This subsection does not prohibit a district from using general funds of the district to support an adult education or community education program.

(15) A district or intermediate district receiving funds under this section may establish a sliding scale of tuition rates based upon a participant's family income. A district or intermediate district may charge a participant tuition to receive adult education services under this section from that sliding scale of tuition rates on a uniform basis. The amount of tuition charged per participant shall not exceed the actual operating cost per participant minus any funds received under this section per participant. A district or intermediate district may not charge a participant tuition under this section if the participant's income is at or below 200% of the federal poverty guidelines published by the United States department of health and human services.

**History:** Add. 1996, Act 300, Imd. Eff. June 19, 1996;—Am. 1997, Act 24, Imd. Eff. June 16, 1997;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Former § 388.1707, which pertained to adult education programs, was repealed by Act 336 of 1993, Eff. Oct. 1, 1994. In subsection (1), as amended by Act 121 of 2001, the phrase "and for 2002-2003" was vetoed by the governor September 28, 2001. In subdivision (3)(a), as amended by Act 121 of 2001, the phrase "and 2002-2003" was vetoed by the governor September 28, 2001. In subdivision (3)(b), as amended by Act 121 of 2001, the phrase "and for 2002-2003" was vetoed by the governor September 28, 2001. Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

Subsection (16), as amended by Act 158 of 2003, was vetoed by the governor on August 11, 2003.

### **388.1707a Family resource center curriculum blue ribbon study committee; delivery of adult education and related family services; recommendations; qualifications and appointment of members; timetable.**

Sec. 107a. (1) The family resource center curriculum blue ribbon study committee is established to explore and make recommendations on implementing a new integrated system of delivering adult education and related family services beginning with the 2004-2005 school year, including, but not limited to:

(a) Educational services, including, but not limited to, high school completion programs, adult basic education, general education development (G.E.D.) test preparation, English as a second language programs, and early childhood education.

(b) Family services, including, but not limited to, even start programs, 21st century learning center grants, before- and after-school child care programs, parenting classes, and referrals for family and child services.

(c) Employment and training services, including, but not limited to, career preparation programs and work readiness classes.

(2) The family resource center curriculum blue ribbon study committee shall consist of the following:



## THE STATE SCHOOL AID ACT OF 1979

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- (a) Two members of the senate, 1 appointed by the senate majority leader and 1 appointed by the senate minority leader.
- (b) Two members of the house of representatives, 1 appointed by the speaker of the house of representatives and 1 appointed by the minority leader of the house of representatives.
- (c) A representative of the Michigan association of community and adult education.
- (d) A representative of the Michigan works! association.
- (e) Three local adult education program directors, appointed jointly by the legislative members appointed under subdivisions (a) and (b).
- (f) Three local Michigan works program directors, appointed jointly by the legislative members appointed under subdivisions (a) and (b).
- (g) The state director of adult education.
- (3) The timetable for the work of the family resource center curriculum blue ribbon study committee is as follows:
  - (a) Not later than September 1, 2003, report on its progress to the senate and house appropriations subcommittees responsible for this act.
  - (b) Not later than November 1, 2003, make final recommendations to the senate and house appropriations subcommittees responsible for this act.

**History:** Add. 2003, Act 158, Imd. Eff. Aug. 11, 2003.

**Compiler's note:** Former § 388.1707a, which pertained to economic development job training, was repealed by Act 130 of 1995, Eff. Oct. 1, 1995.

### **388.1707b Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to JOBS grant program.

### **388.1707c, 388.1707d Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to literacy project grants and adult education categorical grants.

### **388.1707e Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to adult education programs.

### **388.1707f Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to adult education programs.

### **388.1708 Adult learning programs.**

Sec. 108. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed \$0.00 for 2003-2004 for partnership for adult learning programs authorized under this section.

(2) To be eligible to be enrolled as a participant in an adult learning program funded under this section, a person shall be at least 16 years of age as of September 1 of the immediately preceding state fiscal year and shall meet the following, as applicable:

(a) If the individual has obtained a high school diploma or a general education development (G.E.D.) certificate, the individual is determined to have English language proficiency, reading, writing, or math skills below workforce readiness standards as determined by tests approved by the department of career development and is not enrolled in a postsecondary institution. An individual who has obtained a high school diploma is not eligible for enrollment in a G.E.D. test preparation program funded under this section.

(b) If the individual has not obtained a high school diploma or a G.E.D. certificate, the individual has not attended a secondary institution for at least 6 months before enrollment in an adult learning program funded under this section and is not enrolled in a postsecondary institution.

(3) From the allocation under subsection (1), an amount not to exceed \$0.00 is allocated for 2003-2004 to local workforce development boards for the purpose of providing regional adult learning programs. An application for a grant under this subsection shall be in the form and manner prescribed by the department of career development. Subject to subsections (4), (5), and (6), the amount allocated to each local workforce development board shall be as provided in this subsection, except that an eligible local workforce development board shall not receive an initial allocation under this section that is less than \$70,000.00. The maximum amount of a grant awarded to an eligible local workforce development board shall be the sum of the following components:

(a) Thirty-four percent of the allocation under this subsection multiplied by the proportion of the family independence agency caseload in the local workforce development board region to the statewide family

independence agency caseload.

(b) Thirty-three percent of the allocation under this subsection multiplied by the proportion of the number of persons in the local workforce development board region over age 17 who have not received a high school diploma compared to the statewide total of persons over age 17 who have not received a high school diploma.

(c) Thirty-three percent of the allocation under this subsection multiplied by the proportion of the number of persons in the local workforce development board region over age 17 for whom English is not a primary language compared to the statewide total of persons over age 17 for whom English is not a primary language.

(4) The amount of a grant to a local workforce development board under subsection (3) shall not exceed the cost for adult learning programs needed in the local workforce development board region, as documented in a manner approved by the department of career development.

(5) Not more than 9% of a grant awarded to a local workforce development board may be used for program administration, including contracting for the provision of career and educational information, counseling services, and assessment services.

(6) In order to receive funds under this section, a local workforce development board shall comply with the following requirements in a manner approved by the department of career development:

(a) The local workforce development board shall document the need for adult learning programs in the local workforce development region.

(b) The local workforce development board shall report participant outcomes and other measurements of program performance.

(c) The local workforce development board shall develop a strategic plan that incorporates adult learning programs in the region. A local workforce development board is not eligible for state funds under this section without a strategic plan approved by the department of career development.

(d) The local workforce development board shall furnish to the department of career development, in a form and manner determined by the department of career development, the information the department of career development determines is necessary to administer this section.

(e) The local workforce development board shall allow access for the department of career development or its designee to audit all records related to adult learning programs for which it receives funds. The local workforce development board shall reimburse this state for all disallowances found in the audit in a manner determined by the department of career development.

(7) Local workforce development boards shall distribute funds to eligible adult learning providers as follows:

(a) Not less than 85% of a grant award shall be used to support programs that improve reading, writing, and math skills to workforce readiness standards; English as a second language programs; G.E.D. preparation programs; high school completion programs; or workforce readiness programs in the local workforce development board region. These programs may include the provision of career and educational information, counseling services, and assessment services.

(b) Up to 15% of a grant award may be used to support workforce readiness programs for employers in the local workforce development board region as approved by the department of career development. Employers or consortia of employers whose employees participate in these programs must provide matching funds in a ratio of at least \$1.00 of private funds for each \$1.00 of state funds.

(8) Local workforce development boards shall award competitive grants to eligible adult learning providers for the purpose of providing adult learning programs in the local workforce development board region. Applications shall be in a form and manner prescribed by the department of career development. In awarding grants, local workforce development boards shall consider all of the following:

(a) The ability of the provider to assess individuals before enrollment using assessment tools approved by the department of career development and to develop individual adult learner plans from those assessments for each participant.

(b) The ability of the provider to conduct continuing assessments in a manner approved by the department of career development to determine participant progress toward achieving the goals established in individual adult learner plans.

(c) The past effectiveness of an eligible provider in improving adult literacy skills and the success of an eligible provider in meeting or exceeding performance measures approved by the department of career development.

(d) Whether the program is of sufficient intensity and duration for participants to achieve substantial learning gains.

(e) Whether the program uses research-based instructional practices that have proven to be effective in teaching adult learners.

- (f) Whether the program uses advances in technology, as appropriate, including computers.
  - (g) Whether the programs are staffed by well-trained teachers, counselors, and administrators.
  - (h) Whether the activities coordinate with other available resources in the community, such as schools, postsecondary institutions, job training programs, and social service agencies.
  - (i) Whether the provider offers flexible schedules and support services, such as child care and transportation, that enable participants, including individuals with disabilities or other special needs, to attend and complete programs.
  - (j) Whether the provider offers adequate job and postsecondary education counseling services.
  - (k) Whether the provider can maintain an information management system that has the capacity to report participant outcomes and monitor program performance against performance measures approved by the department of career development.
  - (l) Whether the provider will allow access for the local workforce development board or its designee to audit all records related to adult learning programs for which it receives funds. The adult learning provider shall reimburse the local workforce development board for all disallowances found in the audit.
  - (m) The cost per participant contact hour or unit of measurable outcome for each type of adult learning program for which the provider is applying.
- (9) Contracts awarded by local workforce development boards to adult learning providers shall comply with the priorities established in a strategic plan approved by the department of career development.
- (10) Adult learning providers that do not agree with the decisions of the local workforce development board in issuing or administering competitive grants may use the grievance procedure established by the department of career development.
- (11) Local workforce development boards shall reimburse eligible adult learning providers under this section as follows:
- (a) For a first-time provider, as follows:
    - (i) Fifty percent of the contract amount shall be allocated to eligible adult learning providers based upon enrollment of participants in adult learning programs. "Enrollment" means a participant enrolled in the program who received a preenrollment assessment using assessment tools approved by the department of career development and for whom an individual adult learner plan has been developed.
    - (ii) Fifty percent of the contract amount shall be allocated to eligible adult learning providers based upon the following performance standards as measured in a manner approved by the department of career development:
      - (A) The percentage of participants taking both a pretest and a posttest in English language proficiency, reading, writing, and math.
      - (B) The percentage of participants showing improvement toward goals identified in their individual adult learner plan.
      - (C) The percentage of participants achieving their terminal goals as identified in their individual adult learner plan.
  - (b) Eligible providers that have provided adult learning programs previously under this section shall be reimbursed 100% of the contract amount based upon the performance standards in subdivision (a)(ii) as measured in a manner determined by the department of career development.
  - (c) A provider is eligible for reimbursement for a participant in an adult learning program until the participant's reading, writing, or math proficiency, as applicable, is assessed at workforce readiness levels or the participant fails to show progress on 2 successive assessments as determined by the department of career development.
  - (d) A provider is eligible for reimbursement for a participant in an English as a second language program until the participant is assessed as having attained basic English proficiency or the participant fails to show progress on 2 successive assessments as determined by the department of career development.
  - (e) A provider is eligible for reimbursement for a participant in a G.E.D. test preparation program until the participant passes the G.E.D. test or the participant fails to show progress on 2 successive assessments as determined by the department of career development.
  - (f) A provider is eligible for reimbursement for a participant in a high school completion program until the participant earns a high school diploma or the participant fails to show progress as determined by the department of career development.
- (12) A person who is not eligible to be a participant funded under this section may receive adult learning services upon the payment of tuition or fees for service. The tuition or fee level shall be determined by the adult learning provider and approved by the local workforce development board.
- (13) Adult learning providers may collect refundable deposits from participants for the use of reusable equipment and supplies and may provide incentives for program completion.

(14) A provider shall not be reimbursed under this section for an individual who is an inmate in a state correctional facility.

(15) In order to administer the partnership for adult learning system under this section, the department of career development shall do all of the following:

(a) Develop and provide guidelines to local workforce development boards for the development of strategic plans that incorporate adult learning.

(b) Develop and provide adult learning minimum program performance standards to be implemented by local workforce development boards.

(c) Identify approved assessment tools for assessing a participant's English language proficiency, reading, math, and writing skills.

(d) Approve workforce readiness standards for English language proficiency, reading, math, and writing skills that can be measured by nationally recognized assessment tools approved by the department of career development.

(16) Of the amount allocated in subsection (1), up to \$0.00 is allocated to the department of career development for the development and administration of a standardized data collection system. Local workforce development boards and adult learning providers receiving funding under this section shall use the standardized data collection system for enrolling participants in adult learning programs, tracking participant progress, reporting participant outcomes, and reporting other performance measures.

(17) A provider is not required to use certificated teachers or certificated counselors to provide instructional and counseling services in a program funded under this section.

(18) As used in this section:

(a) "Adult education", for the purposes of complying with section 3 of article VIII of the state constitution of 1963, means a high school pupil receiving educational services in a nontraditional setting from a district or intermediate district in order to receive a high school diploma.

(b) "Adult learning program" means a program approved by the department of career development that improves reading, writing, and math skills to workforce readiness standards; an English as a second language program; a G.E.D. preparation program; a high school completion program; or a workforce readiness program that enhances employment opportunities.

(c) "Eligible adult learning provider" means a district, public school academy, intermediate district, community college, university, community-based organization, or other organization approved by the department of career development that provides adult learning programs under a contract with a local workforce development board.

(d) "Participant" means an individual enrolled in an adult learning program and receiving services from an eligible adult learning provider.

(e) "Strategic plan" means a document approved by the department of career development that incorporates adult learning goals and objectives for the local workforce development board region and is developed jointly by the local workforce development board and the education advisory groups.

(f) "Workforce development board" means a local workforce development board established pursuant to the workforce investment act of 1998, Public Law 105-220, 112 Stat. 936, and the school-to-work opportunities act of 1994, Public Law 103-239, 108 Stat. 568, or the equivalent.

(g) "Workforce readiness standard" means a proficiency level approved by the department of career development in English language, reading, writing, or mathematics, or any and all of these, as determined by results from assessments approved for use by the department of career development.

**History:** Add. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003;—Am. 2003, Act 236, Imd. Eff. Dec. 29, 2003.

**Compiler's note:** Former § 388.1708, which pertained to adult education programs, was repealed by Act 93 of 1997, Eff. Oct. 1, 1997. Sec. 108, as amended by Act 121 of 2001, was vetoed by the governor September 28, 2001.

Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963."

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

Enacting section 1 of Act 236 of 2003 provides:

"Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2003 PA 158 and 2002 PA 521 from state sources for fiscal year 2003-2004 is estimated at \$11,290,087,100.00 and state appropriations to be paid to local units of government for fiscal year 2003-2004 are estimated at \$11,274,332,800.00."

**388.1709 Providing appropriate instructional services to pupil requiring hospitalization or confinement at home.**

Sec. 109. (1) Subject to subsection (2), in order to receive funds under this act, each district or intermediate district shall provide appropriate instructional services, as determined by the district or intermediate district, to an enrolled pupil who is certified by the pupil's attending physician as having a medical condition that requires the pupil to be hospitalized or confined to his or her home during regular school hours and that is expected to require the hospitalization or confinement for a period longer than 5 school days. The district or intermediate district may provide the services itself or may contract with an intermediate district, a hospital, a treatment center, or another district to provide the services. In choosing a provider for the instructional services, the district or intermediate district shall consider which of those potential providers is best able to deliver the appropriate instructional services. The district or intermediate district shall pay reasonable costs as agreed upon between the district or intermediate district and the provider for services provided to a pupil under this section.

(2) A district or intermediate district is required to provide instructional services under subsection (1) to a pupil placed in a hospital, treatment center, or other treatment facility without the district's or intermediate district's prior knowledge only if the district or intermediate district is notified of the pupil's placement by the hospital, treatment center, facility, or the pupil's parent or legal guardian. Upon being notified, the district or intermediate district shall make arrangements to provide instructional services under subsection (1) within 3 school days after being notified.

(3) Not later than October 15 of each odd numbered year, the department shall prepare and distribute to each district and intermediate district a written explanation of the operation of this section and the respective duties of all affected parties. The department shall provide a copy of the explanation to any other person upon request.

**History:** Add. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1994, Act 283, Eff. Oct. 1, 1994.

ARTICLE 11

**388.1711 Tuition rates; computation; uniformity.**

Sec. 111. A district having tuition pupils enrolled on the pupil membership count day of each year may charge the district of residence an amount for tuition that does not exceed the tuition rate computed under section 1401 of the revised school code, MCL 380.1401. The rate charged by a district shall be uniform within each category of tuition pupils enrolled in the district. However, for a tuition pupil who resides in a K-5, K-6, or K-8 district and who is enrolled in a grade not offered by the pupil's district of residence, the tuition rate charged to the pupil's district of residence shall not exceed the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district, whichever is greater.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1983, Act 169, Eff. Oct. 1, 1983;—Am. 1984, Act 239, Eff. Oct. 1, 1984;—Am. 1985, Act 4, Imd. Eff. Mar. 27, 1985;—Am. 1986, Act 97, Imd. Eff. May 14, 1986;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 200, Imd. Eff. Jan. 2, 1992;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1995;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1994, Act 360, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997.

**Compiler's note:** In his veto message relative to Enrolled House Bill 4572, which became Act 118 of 1991, the governor stated that "the tradition of not re-enacting annually the unchanged appropriation sections of the school aid act is constitutionally flawed. It assumes the invalid creation of a continuing appropriation. Therefore, the following sections of the school aid act and their associated allocations must be considered inoperative: 24, 55, 74, 75, 105a, 111, and 116. These sections will be treated as excluded from the current bill... "

**388.1712 Full-day kindergarten; tuition or fee prohibited.**

Sec. 112. A district receiving funds under this act shall not charge tuition or any other fee for full-day kindergarten for a pupil who is eligible to enroll in the district.

**History:** Add. 1997, Act 93, Eff. Oct. 1, 1997.

**388.1713 Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to pupils residing in juvenile or detention home and attending school by court direction.

**388.1716 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to American Indian pupils.



## THE STATE SCHOOL AID ACT OF 1979

### **388.1717 Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to charging legal amount of tuition as requirement for allotment or payment.

### **388.1718 Conditions for allotment or payment; failure to pay full amount; remittance; deduction from school aid.**

Sec. 118. (1) Subject to subsection (3), a district shall not be allotted or paid a sum under this act unless that district pays the agreed-upon amount of tuition or other payment for pupils educated outside the boundaries of the pupil's district of residence.

(2) A district that sends pupils to 1 or more districts, that is legally liable for the payment of the amount described in subsection (1), and that fails to pay that amount in full before April 1 of each year shall remit the full amount owed to the receiving district before making any other financial expenditure or commitment for the next school fiscal year.

(3) The department shall not deduct any amount from a district's state school aid pursuant to this section unless the receiving district demonstrates to the satisfaction of the department, not later than April 30 of the same fiscal year, that the liable district has not paid the required amount as described in subsection (2).

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1995, Act 130, Eff. Oct. 1, 1995.

## ARTICLE 12

### **388.1721 Valuation of district; adjustments.**

Sec. 121. (1) The valuation of a whole or fractional district shall be the total taxable value of the property contained in the whole or fractional district as last determined by the state tax commission and placed on the ad valorem tax roll. For purposes of computations made under this act, except as provided in section 26, the taxable value of a district or intermediate district shall include the value of property used to calculate the tax imposed on lessees or users of tax-exempt property under Act No. 189 of the Public Acts of 1953, being sections 211.181 to 211.182 of the Michigan Compiled Laws. Adjustments to this taxable value shall be made for all of the following:

- (a) State tax tribunal decisions.
- (b) Court decisions.
- (c) Local board of review adjustments made after the state tax commission determination.
- (d) Lands deeded to the state for jurisdictions without delinquent tax revolving funds or for jurisdictions that have required repayment to the delinquent tax revolving funds.

(e) The requirements of this act.

(2) Adjustments under subsection (1) shall not be made for more than the 6 state fiscal years immediately preceding the state fiscal year in which the adjustment is made, except that an adjustment pursuant to a state tax tribunal decision or court decision shall be made for the tax years involved in the decision and any subsequent years affected by the decision.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1995, Act 130, Eff. Oct. 1, 1995.

### **388.1721a Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to state education tax.

### **388.1722 Deducting valuation of property from valuation of district; condition; credit as lien; payment of school aid fund.**

Sec. 122. The valuation of property assessed under Act No. 189 of the Public Acts of 1953, as amended, being sections 211.181 to 211.182 of the Michigan Compiled Laws, shall be deducted from the total valuation of a district if school taxes levied against the property are not collected from the lessee or user of the property. The credit so obtained by a district in the calculation of payments to the district under this act shall remain a lien against the district and shall be paid by the district to the school aid fund when the taxes are collected.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1993, Act 336, Eff. Oct. 1, 1994.

### **388.1724 Reducing valuation of district when taxes paid under certain conditions; credits as lien against district; payment to school aid fund; implementation of subsection (2).**

## THE STATE SCHOOL AID ACT OF 1979

Sec. 124. (1) If taxes levied for operating purposes against property constituting at least 5% of the valuation of a district are paid under protest and, therefore, are unavailable to the district, the total valuation of the district for the purposes of this act shall be reduced by the valuation of the property. The credits so obtained by a district in the calculation of payments to the district under this act shall remain a lien against the district and shall be paid by the district to the school aid fund when the taxes are collected.

(2) If taxes levied for operating purposes against property constituting at least 5% of the valuation of a district are not paid by a single bankrupt debtor that files for reorganization under chapter 11 of title 11 of the United States Code, 11 U.S.C. 1101 to 1174, and, therefore, are unavailable to the district, the total valuation of the district for the purposes of this act shall be reduced by the valuation of the property. The credits so obtained by a district in the calculation of payments to the district under this act shall remain a lien against the district and shall be paid by the district to the school aid fund when the taxes are collected. This subsection shall be implemented upon verification by the department that the district has taken proper action to attempt to secure payment of taxes by the bankrupt debtor.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1982, Act 276, Imd. Eff. Oct. 5, 1982;—Am. 1987, Act 17, Imd. Eff. Apr. 24, 1987;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Imd. Eff. June 30, 1995;—Am. 1997, Act 93, Eff. Oct. 1, 1997.

## ARTICLE 14

### **388.1743—388.1744a Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to amounts allocated to eligible districts, allocations to applicants sustaining SEV reduction due to listing of forest land, deductions of amounts, and sources of revenue.

### **388.1745 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to state share of desegregation costs.

### **388.1746 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed section pertained to social security and medicare obligations.

### **388.1746a Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to payments to districts for social security and medicare.

### **388.1747 Allocations to public school employees' retirement system.**

Sec. 147. (1) The allocation for 2003-2004 for the public school employees' retirement system pursuant to the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, shall be made using the entry age normal cost actuarial method and risk assumptions adopted by the public school employees retirement board and the department of management and budget. The annual level percentage of payroll contribution rate is estimated 14.37% for the 2003-2004 state fiscal year. However, if all eligible districts participating in the school bond loan authority assist the state treasurer in the refinancing of school bond loan authority debt, the annual level percentage of payroll contribution rate for all districts is estimated to be 12.99% for the 2003-2004 fiscal year. If an eligible district does not assist in the refinancing, that district's payroll contribution rate is estimated to be 14.37% for the 2003-2004 fiscal year. The portion of the contribution rate assigned to districts and intermediate districts for each fiscal year is all of the total percentage points. This contribution rate reflects an amortization period of 33 years for 2003-2004. The public school employees' retirement system board shall notify each district and intermediate district by February 28 of each fiscal year of the estimated contribution rate for the next fiscal year.

(2) It is the intent of the legislature that the amortization period described in section 41(2) of the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1341, be reduced to 30 years by the end of the 2005-2006 state fiscal year by reducing the amortization period by not more than 1 year each fiscal year.

**History:** Add. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1994, Act 283, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 180, Imd. Eff. Apr. 19, 1996;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 1997, Act 142, Imd. Eff. Nov. 19, 1997;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999;—Am. 2000, Act 297, Imd. Eff. July 26, 2000;—Am. 2001, Act 121, Imd. Eff. Sept. 28, 2001;—Am. 2002, Act 191, Imd. Eff. Apr. 26, 2002;—Am. 2002, Act 521, Imd. Eff. July 25, 2002;—Am. 2003, Act 158, Eff. Oct. 1, 2003.

**Compiler's note:** Enacting section 3 of Act 521 of 2002 provides:

"Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327,

## THE STATE SCHOOL AID ACT OF 1979

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MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.”

For legislation increasing tax on cigarettes and dedicating a portion of increased revenue to state school aid fund, see 2002 PA 503, Imd. Eff. July 18, 2002.

### **388.1748, 388.1749 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed sections pertained to grant to Detroit compact for comprehensive school, business, government, and community partnership, and Michigan partnership for new education.

### **388.1749a, 388.1749a, 388.1749c, Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to dropout prevention program and Detroit compact for comprehensive school, business, government, and community partnerships.

## ARTICLE 15

### **388.1751 Statement of taxable value; duty of tax tribunal; report.**

Sec. 151. (1) The treasurer of each county shall furnish to the department, on or before August 1 of each year following the receipt of assessment rolls, a statement of the taxable value of each district and fraction of a district within the county, using forms furnished by the department. On or before May 1 of each year, the treasurer of each county shall submit to the department revisions to the taxable value for the immediately preceding year of each district and fraction of a district within the county, using forms furnished by the department. On or before October 1 of each year, the treasurer of each county shall submit to the department revisions to the taxable value for the years after 1993 of each district and fraction of a district within the county, using forms furnished by the department. The reports required by this subsection shall also contain the amount of ad valorem taxable value captured for school operating taxes under a tax increment financing plan under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(2) Not later than the tenth day of each month, the tax tribunal created by the tax tribunal act, 1973 PA 186, MCL 205.701 to 205.779, shall report to the department the changes in taxable value for tax years after 1993 that are not reported to the department under subsection (1) and that are caused by tax tribunal decisions in the immediately preceding month for homestead and qualified agricultural property, as defined in section 1211 of the revised school code, MCL 380.1211, and for property that is not homestead or qualified agricultural property, in each district and intermediate district. The report shall also contain the amount of taxable value captured under a tax increment financing plan described in subsection (1) for school operating tax purposes.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1985, Act 110, Eff. Oct. 1, 1985;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1994, Act 283, Imd. Eff. July 12, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

### **388.1752 Reports for determination of allocation of funds; information; reports of educational progress.**

Sec. 152. Except for reports due on other dates specified in this act, each district and intermediate district shall furnish to the department before the first Monday in November of each year those reports the department considers necessary for the determination of the allocation of funds under this act. In order to receive funds under this act, each district and intermediate district shall also furnish to the department the information the department considers necessary for the administration of this act, including information necessary to determine compliance with article 16, and for the provision of reports of educational progress to the senate and house committees responsible for education, the senate and house appropriations subcommittees responsible for appropriations to school districts, the senate and house fiscal agencies, and the state budget director, as appropriate.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

### **388.1752a Repealed. 1995, Act 130, Imd. Eff. June 30, 1995.**

## THE STATE SCHOOL AID ACT OF 1979

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**Compiler's note:** The repealed section pertained to estimates of full-time equated K-12 and part-time membership.

### **388.1753 Furnishing information to legislative fiscal agencies.**

Sec. 153. Each district and intermediate district shall furnish to the legislative fiscal agencies of the state legislature information the agencies require on forms prepared and furnished by the agencies, relative to the expenditure of funds appropriated and allocated under this act.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1980, Act 320, Imd. Eff. Dec. 10, 1980.

### **388.1754 Repealed. 1996, Act 300, Eff. Oct. 1, 1996.**

**Compiler's note:** The repealed section pertained to names and post office addresses of treasurers, presidents, and secretaries of boards.

### **388.1755 Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to certifications as to nonresident pupils.

### **388.1756, 388.1757 Repealed. 1993, Act 336, Eff. Oct. 1, 1994.**

**Compiler's note:** The repealed sections pertained to informing legislators of amounts received and study of suspended or expelled students.

### **388.1758 Repealed. 2003, Act 158, Eff. Oct. 1, 2003.**

**Compiler's note:** The repealed section pertained to furnishing information for preparation of district pupil retention report.

### **388.1758a Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to reports on suspended and expelled pupils.

### **388.1758b Report by district receiving federal impact aid.**

Sec. 158b. Each district that receives federal impact aid under section 3(c)(1) of title 1 of chapter 1124, 64 Stat. 1100, 20 U.S.C. 238, annually shall report to the department, in the form and manner prescribed by the department, the amount of that aid the district received.

**History:** Add. 1994, Act 283, Eff. Oct. 1, 1994.

### **388.1758c Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to reports on grants or contracts.

### **388.1759 Repealed. 1993, Act 175, Eff. Oct. 1, 1993.**

**Compiler's note:** The repealed section pertained to special report including membership data.

## ARTICLE 16

### **388.1761 Violation as misdemeanor; penalty.**

Sec. 161. A school official or member of a board or other person who neglects or refuses to do or perform an act required by this act or who violates or knowingly permits or consents to the violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$1,500.00, or both.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1990, Act 207, Eff. Oct. 1, 1990.

### **388.1761a False report; court order.**

Sec. 161a. If a court determines that a person intentionally violated section 411a of the Michigan penal code, 1931 PA 328, MCL 750.411a, by making a false report of the commission of a crime described in section 6(6)(g) knowing the report to be false for the purpose of having a pupil counted in membership in a district under section 6(6)(g), as part of the restitution ordered under section 30 of chapter XIIA of 1939 PA 288, MCL 712A.30, section 16, 44, or 76 of the crime victim's rights act, 1985 PA 87, MCL 780.766, 780.794, and 780.826, or section 1a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1a, the court may order the person to pay the pupil's district of residence an amount that is not more than the state school aid that district would have received attributable to the pupil if the pupil had been counted in membership in his or her district of residence.

**History:** Add. 1998, Act 553, Imd. Eff. Jan. 27, 1999.

**388.1762 Failure to file reports; forfeiture of funds.**

Sec. 162. A district or intermediate district that fails through the negligence of school officials to file reports pursuant to this act shall forfeit that proportion of funds to which the district or intermediate district otherwise would be entitled under this act as the delay in the reports bears to a school year consisting of the required minimum number of days and hours, as prescribed in section 1284 of the revised school code, being section 380.1284 of the Michigan Compiled Laws, for the district or intermediate district.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Oct. 1, 1994;—Am. 1996, Act 300, Eff. Oct. 1, 1996.

**388.1763 Prohibited conduct; deduction; notice; misdemeanor; penalty.**

Sec. 163. (1) Except as provided in the revised school code or in section 108, the board of a district or intermediate district shall not permit any of the following:

(a) A noncertificated teacher to teach in an elementary or secondary school or in an adult basic education or high school completion program.

(b) A noncertificated counselor to provide counseling services to pupils in an elementary or secondary school or in an adult basic education or high school completion program.

(2) Except as provided in the revised school code or in section 108, a district or intermediate district employing teachers or counselors not legally certificated shall have deducted the sum equal to the amount paid the teachers or counselors for the period of noncertificated or illegal employment. Each intermediate superintendent shall notify the department of the name of the noncertificated teacher or counselor, and the district employing that individual and the amount of salary the noncertificated teacher or counselor was paid within a constituent district.

(3) If a school official is notified by the department that he or she is employing a nonapproved noncertificated teacher or counselor in violation of this section and knowingly continues to employ that teacher or counselor, the school official is guilty of a misdemeanor, punishable by a fine of \$1,500.00 for each incidence.

**History:** 1979, Act 94, Eff. Oct. 1, 1979;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 2000, Act 297, Imd. Eff. July 26, 2000.

**388.1763a Enrollment of homeless child; definition.**

Sec. 163a. (1) A district shall allow a homeless child who is residing in the district to enroll in the district in accordance with state law and with subtitle B of title VII of the Stewart B. McKinney homeless assistance act, Public Law 100-77, 42 U.S.C. 11431 to 11435.

(2) As used in this section, "homeless child" means a school-age child who is homeless, as defined in section 103 of title I of Public Law 100-77, 42 U.S.C. 11302, or who is the child of a homeless individual, as defined in 42 U.S.C. 11302.

**History:** Add. 1994, Act 283, Eff. Oct. 1, 1994.

**388.1764 Forfeiture of amount equal to expenditure for cars or chauffeurs.**

Sec. 164. A district or intermediate district shall forfeit an amount to which the district or intermediate district otherwise would be entitled under this act equal to the district's or intermediate district's expenditures in the immediately preceding school fiscal year for purchasing, leasing, or renting cars for board members for use within district or intermediate district boundaries, and for chauffeurs for board members or administrators.

**History:** Add. 1986, Act 212, Eff. Oct. 1, 1986;—Am. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1996, Act 300, Eff. Oct. 1, 1996.

**388.1764a Receipt by school administrator of monetary payment in lieu of unused vacation or personal leave.**

Sec. 164a. A district or intermediate district shall not allow a school administrator to receive a monetary payment in lieu of unused vacation or personal leave for the purpose of increasing the school administrator's retirement benefits. If a district or intermediate district violates this section in a fiscal year, the district or intermediate district forfeits from its funds due under this act for that fiscal year an amount equal to the salary of the district's or intermediate district's superintendent for that fiscal year.

**History:** Add. 1994, Act 283, Eff. Oct. 1, 1994.

**388.1764b Payment or reimbursement of board member expenses.**



Sec. 164b. (1) The board of a district or intermediate district shall not pay an expense incurred by a member of the board unless the payment is in compliance with section 1254 of the revised school code, being section 380.1254 of the Michigan Compiled Laws.

(2) In addition to the requirements of section 1254 of the revised school code, the board of a district or intermediate district shall not approve reimbursement of an expense incurred by a board member unless 1 or both of the following conditions is met:

(a) The board, by a majority vote of its members at an open meeting, approved reimbursement of the specific expense before the expense was incurred.

(b) The expense is consistent with a policy adopted by the board, by a majority vote of its members at a regular board meeting, establishing specific categories of reimbursable expenses and the board, by a majority vote of its members at an open meeting, approved the reimbursement before it is actually paid.

(3) Records of all payments under this section shall be open to the public.

(4) A violation of this section is punishable under section 161.

**History:** Add. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996.

### **388.1764c Purchase of foreign goods or services.**

Sec. 164c. A district or intermediate district shall not use funds appropriated under this act to purchase foreign goods or services if competitively priced American goods or services of comparable quality are available.

**History:** Add. 1995, Act 130, Eff. Oct. 1, 1995.

### **388.1764d Adoption, implementation, or issuance of certain policies, practices, or statements; prohibition.**

Sec. 164d. A district or intermediate district shall not expend funds received under this act to adopt or implement a policy or practice, or to make or issue any public statement or directive, that has the effect of any of the following:

(a) Denies to a student of a particular state university access to the district or intermediate district for student teaching purposes solely because the student is enrolled in that state university.

(b) Prevents the hiring of a graduate of a particular state university solely because the individual graduated from that state university.

(c) Discourages or prohibits a counselor employed by the district or intermediate district from recommending a particular state university to a pupil of the district or intermediate district for reasons other than the suitability of the state university's educational offerings for the particular pupil.

**History:** Add. 1995, Act 130, Eff. Oct. 1, 1995.

### **388.1764e Student teaching; employment discrimination prohibited.**

Sec. 164e. If a district or an employee of a district discriminates against a person engaging in or seeking to engage in student teaching in the district because the state university in which the person is enrolled serves as the authorizing body for 1 or more public school academies, the district forfeits an amount equal to 10% of the funds due to the district under this act.

**History:** Add. 1996, Act 300, Eff. Oct. 1, 1996.

### **388.1765 Reimbursement by entity in contractual shared time agreement.**

Sec. 165. If an individual or private entity receives payment or consideration from a district or intermediate district as a result of involvement in a contractual shared time agreement and if memberships attributable to that agreement are subsequently disallowed by the department, the individual or entity shall reimburse to the district or intermediate district the full amount of the payment or consideration received. The attorney general may take any action necessary to enforce the reimbursement required under this section.

**History:** Add. 1998, Act 339, Imd. Eff. Oct. 13, 1998.

**Compiler's note:** Former § 388.1765, which pertained to forfeiture of apportionments, was repealed by Act 300 of 1996, Eff. Oct. 1, 1996.

### **388.1766 Dispensing or distributing family planning or drug or device, dispensing prescriptions for family planning drug, or making referrals for abortion; forfeiture.**

Sec. 166. A district in which a school official, member of a board, or other person dispenses or otherwise distributes a family planning drug or device in a public school in violation of section 1507 of the revised school code, being section 380.1507 of the Michigan Compiled Laws, dispenses prescriptions for any family planning drug, or makes referrals for abortions shall forfeit 5% of its total state aid appropriation.

## THE STATE SCHOOL AID ACT OF 1979

**History:** Add. 1987, Act 128, Eff. Oct. 1, 1987;—Am. 1988, Act 318, Eff. Oct. 1, 1988;—Am. 1989, Act 197, Eff. Oct. 1, 1989;—Am. 1990, Act 207, Eff. Oct. 1, 1990;—Am. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1996, Act 300, Eff. Oct. 1, 1996.

### **388.1766a Instruction in reproductive health or other sex education; complaint process.**

Sec. 166a. (1) In order to avoid forfeiture of state aid under subsection (2), the board of a district or intermediate district providing reproductive health or other sex education instruction under section 1169, 1506, or 1507 of the revised school code, MCL 380.1169, 380.1506, and 380.1507, or under any other provision of law, shall ensure that all of the following are met:

(a) That the district or intermediate district does not provide any of the instruction to a pupil who is less than 18 years of age unless the district or intermediate district notifies the pupil's parent or legal guardian in advance of the instruction and the content of the instruction, gives the pupil's parent or legal guardian a prior opportunity to review the materials to be used in the instruction, allows the pupil's parent or legal guardian to observe the instruction, and notifies the pupil's parent or legal guardian in advance of his or her rights to observe the instruction and to have the pupil excused from the instruction.

(b) That, upon the written request of a pupil's parent or legal guardian or of a pupil if the pupil is at least age 18, the pupil shall be excused, without penalty or loss of academic credit, from attending class sessions in which the instruction is provided.

(c) That the sex education instruction includes age-appropriate information clearly informing pupils at 1 or more age-appropriate grade levels that having sex or sexual contact with an individual under the age of 16 is a crime punishable by imprisonment, and that 1 of the other results of being convicted of this crime is to be listed on the sex offender registry on the internet for up to 25 years.

(2) If a parent or legal guardian of a pupil enrolled in a district or intermediate district believes that the district or intermediate district has violated this section or section 1169, 1506, or 1507 of the revised school code, MCL 380.1169, 380.1506, and 380.1507, he or she may file a complaint with the superintendent or chief administrator of the district or intermediate district in which the pupil is enrolled. Upon receipt of the complaint, the superintendent or chief administrator of the district or intermediate district shall investigate the complaint and, within 30 days after the date of the complaint, provide a written report of his or her findings to the parent or legal guardian who filed the complaint and to the superintendent of public instruction. If the investigation reveals that 1 or more violations have occurred, the written report shall contain a description of each violation and of corrective action the district or intermediate district will take to correct the situation to ensure that there is no further violation. The district or intermediate district shall take the corrective action described in the written report within 30 days after the date of the written report.

(3) If a parent who has filed a complaint with a district under subsection (2) believes that the district is still not in compliance with law based on the findings made by the superintendent or chief administrator of the district, the parent may appeal the findings to the intermediate district in which the district is located. If there is an appeal to an intermediate district under this subsection, the intermediate superintendent of the intermediate district shall investigate the complaint and, within 30 days after the date of the appeal, provide a written report of his or her findings to the parent or legal guardian who filed the appeal and to the superintendent of public instruction. If the investigation by the intermediate superintendent reveals that 1 or more violations have occurred, the intermediate superintendent in consultation with the local district shall develop a plan for corrective action for the district to take to correct the situation to ensure that there is no further violation, and shall include this plan for corrective action with the written report provided to the parent or legal guardian and the superintendent of public instruction. The district shall take the corrective action described in the plan within 30 days after the date of the written report.

(4) If a parent who has filed a complaint with an intermediate district under subsection (2) or a parent who has filed an appeal with an intermediate district under subsection (3) believes that the district or intermediate district is still not in compliance with law based on the findings made by the intermediate superintendent of the intermediate district, the parent may appeal the findings to the department. If there is an appeal to the department under this subsection, the department shall investigate the complaint and, within 90 days after the date of the appeal, provide a written report of its findings to the parent or legal guardian who filed the appeal, to the superintendent of public instruction, and to the district and intermediate district. If the department finds 1 or more violations as a result of its investigation, then all of the following apply:

(a) The department shall develop a plan for corrective action for the district or intermediate district to take to correct the situation to ensure that there is no further violation, and shall include this plan for corrective action with the written report provided to the parent or legal guardian, the superintendent of public instruction, and the district

or intermediate district. The district or intermediate district shall take the corrective action described in the plan within 30 days after the date of the written report.

(b) In addition to withholding the percentage of state school aid forfeited by the district or intermediate district under subsection (5), the department may assess a fee to the district or intermediate district that committed the violation in an amount not to exceed the actual cost to the department of conducting the investigation and making the reports required under this subsection.

(5) If an investigation conducted by the department under subsection (4) reveals that a district or intermediate district has committed 1 or more violations of this section or section 1169, 1506, or 1507 of the revised school code, MCL 380.1169, 380.1506, and 380.1507, the district or intermediate district shall forfeit an amount equal to 1% of its total state school aid allocation under this act.

(6) The department, with the approval of the superintendent of public instruction, shall establish a reasonable process for a complainant to appeal to the department under subsection (4). The process shall not place an undue burden on the complainant, the district or intermediate district, or the department.

(7) The department shall track the number of complaints and appeals it receives under this section for the 2004-2005 school year and, not later than the end of that school year, shall submit a report to the standing committees and appropriations subcommittees of the legislature having jurisdiction over education legislation and state school aid that details the number and nature of those complaints and appeals and the cost to the department of handling them.

**History:** Add. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1993, Act 336, Eff. Mar. 15, 1994;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 2003, Act 158, Eff. Oct. 1, 2003;—Am. 2004, Act 166, Imd. Eff. June 24, 2004.

### **388.1766b Minor enrolled in nonpublic school or home school.**

Sec. 166b. (1) This act does not prohibit a parent or legal guardian of a minor who is enrolled in any of grades 1 to 12 in a nonpublic school or who is being home-schooled from also enrolling the minor in a district or intermediate district in any curricular offering that is provided by the district or intermediate district at a public school site and is available to pupils in the minor's grade level or age group, subject to compliance with the same requirements that apply to a full-time pupil's participation in the offering. However, state school aid shall be provided under this act for a minor enrolled as described in this subsection only for curricular offerings that are offered to full-time pupils in the minor's grade level or age group during regularly scheduled school hours.

(2) This act does not prohibit a parent or legal guardian of a minor who is enrolled in any of grades 1 to 12 in a nonpublic school located within the district or who resides within the district and is being home-schooled from also enrolling the minor in the district in a curricular offering being provided by the district at the nonpublic school site. However, state school aid shall be provided under this act for a minor enrolled as described in this subsection only if all of the following apply:

(a) The nonpublic school site is located, or the nonpublic students are educated, within the geographic boundaries of either the district or a contiguous district operating under a cooperative program of which the district is a member and that is established for the purpose of providing nonessential elective courses to nonpublic school students.

(b) The nonpublic school is registered with the department as a nonpublic school and meets all state reporting requirements for nonpublic schools.

(c) The instruction is scheduled to occur during the regular school day.

(d) The instruction is provided directly by an employee of the district or of an intermediate district.

(e) The curricular offering is also available to full-time pupils in the minor's grade level or age group in the district during the regular school day at a public school site.

(f) The curricular offering is restricted to nonessential elective courses for pupils in grades 1 to 12.

(3) A minor enrolled as described in this section is a part-time pupil for purposes of state school aid under this act.

**History:** Add. 1993, Act 175, Eff. Oct. 1, 1993;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1998, Act 339, Imd. Eff. Oct. 13, 1998;—Am. 1999, Act 119, Imd. Eff. July 20, 1999.

### **388.1766d Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.**

**Compiler's note:** The repealed section pertained to health care coverage for abortion services.

### **388.1766e Construction of new building, or addition to or repair or renovation of existing building; use of competitive bid process.**

Sec. 166e. Before entering into a contract in an amount in excess of \$15,000.00 for any materials, supplies, or

equipment or a contract in an amount in excess of \$15,000.00 for construction of a new building, or addition to or repair or renovation of an existing building, the board of a district organized as a school district of the first class under part 6 of the revised school code, MCL 380.401 to 380.485, or any other purchasing authority within a district organized as a school district of the first class, shall obtain sealed competitive bids, and the district shall award such a contract using this competitive bid process. This section does not prohibit a district from making a public request for proposals before requesting bids and does not prohibit a district from awarding a contract based on a combination of price, quality, and service factors. A school official or member of a school board or other person who neglects or refuses to do or perform an act required by this section, or who violates or knowingly permits or consents to a violation of this section, is guilty of a misdemeanor punishable by a fine of not more than \$500.00, or imprisonment for not more than 3 months, or both.

**History:** Add. 1997, Act 93, Eff. Oct. 1, 1997.

**388.1767 Plan for compliance with §§ 333.9209 and 380.1177; report of immunization status; districts subject to subsection (4); failure to comply with section.**

Sec. 167. (1) The department in cooperation with the department of community health shall develop plans to assist districts and intermediate districts and local county health departments to comply with section 1177 of the revised school code, MCL 380.1177, and section 9209 of the public health code, 1978 PA 368, MCL 333.9209, for each school year.

(2) Each district or intermediate district shall report to the local health department in which it is located by November 1 of each fiscal year, in a manner prescribed by the department of community health, the immunization status of each pupil in grades K through 12 who enrolled in the district or intermediate district for the first time or, beginning in 2002-2003, who enrolled in grade 6 in the district or intermediate district for the first time, between January 1 and September 30 of the immediately preceding fiscal year. Not later than December 31 of each fiscal year, the department of community health shall notify the department by district or intermediate district of the percentage of entering pupils and, beginning in 2002-2003, of pupils who enrolled in grade 6 for the first time who do not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177. If a district or intermediate district does not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177, for at least 90% of the district's or intermediate district's entering pupils, as recorded in the November 1 reports required under this subsection, the district or intermediate district is subject to subsection (4) until the district or intermediate district has such an immunization record for at least 90% of its pupils who enrolled in the district or intermediate district for the first time.

(3) Each district or intermediate district shall again report to the local health department in which it is located by February 1 of each fiscal year, in a manner prescribed by the department of community health, the immunization status of each pupil in grades K through 12 who enrolled in the district or intermediate district for the first time or, beginning in 2002-2003, who enrolled in grade 6 in the district or intermediate district for the first time, between January 1 of the immediately preceding fiscal year and December 31 of the current fiscal year. Not later than March 31 of each fiscal year, the department of community health shall notify the department by district or intermediate district of the percentage of entering pupils and, beginning in 2002-2003, of pupils who enrolled in grade 6 for the first time who do not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177. If a district or intermediate district does not have a completed, waived, or provisional immunization record in accordance with section 1177 of the revised school code, MCL 380.1177, for at least 95% of the district's or intermediate district's entering pupils, as recorded in the February 1 reports required under this subsection, the district or intermediate district is subject to subsection (4) until the district or intermediate district has such an immunization record for at least 95% of its pupils who enrolled in the district or intermediate district for the first time. If the department of community health is not able to report to the department by March 31 because a district or intermediate district fails to submit a report as required in this subsection, or submits an incomplete, inaccurate, or late report, the district or intermediate district is subject to subsection (4) until the report is submitted in a complete and accurate form.

(4) If a district or intermediate district does not comply with this section, the department shall withhold 5% of the total funds due to the district or intermediate district under this act after the date the department of community health reports a district's or intermediate district's noncompliance with this section to the department until the district or intermediate district complies with this section. If the district or intermediate district does not comply with this section by the end of the fiscal year, the district or intermediate district forfeits the total amount withheld.

**History:** Add. 1991, Act 118, Imd. Eff. Oct. 11, 1991;—Am. 1992, Act 148, Eff. Oct. 1, 1992;—Am. 1993, Act 175, Eff. Oct. 1, 1993;—Am.

## THE STATE SCHOOL AID ACT OF 1979

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1993, Act 336, Eff. Oct. 1, 1994;—Am. 1995, Act 130, Eff. Oct. 1, 1995;—Am. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997;—Am. 2000, Act 89, Imd. Eff. May 1, 2000.

### **388.1767a Repealed. 1995, Act 130, Eff. Oct. 1, 1995.**

**Compiler's note:** The repealed section pertained to funds held in escrow.

### **388.1768 Access to records; audit.**

Sec. 168. In order to receive funds under this act, a district, intermediate district, grant recipient, contractor, or other entity that directly or indirectly receives funds under this act shall allow access for the department or the department's designee to audit all records related to a program for which it receives such funds. The district, intermediate district, grant recipient, contractor, or other entity shall reimburse the state for all disallowances found in the audit.

**History:** Add. 1993, Act 175, Eff. Oct. 1, 1993.

### **388.1768a Removing or contracting to remove asbestos.**

Sec. 168a. In order to receive funds under this act, a district or intermediate district shall not remove asbestos, or contract for the removal of asbestos, from an educational facility unless the removal is required under Act No. 51 of the Public Acts of 1993, being sections 388.861 to 388.864 of the Michigan Compiled Laws.

**History:** Add. 1993, Act 175, Eff. Oct. 1, 1993.

### **388.1769 State aid to public school academies.**

Sec. 169. In order for a public school academy to receive state aid under this act, the public school academy shall demonstrate to the satisfaction of the department that the public school academy has made a good faith effort to advertise, throughout the entire area of the intermediate district in which the public school academy is located, that the academy is enrolling students and the procedures for applying for enrollment. The department shall not make any payments to a public school academy until the public school academy supplies evidence satisfactory to the department demonstrating compliance with this section. If a public school academy is a successor to a nonpublic school and more than 75% of the pupils enrolled in the public school academy during its first school year of operation were previously enrolled in that nonpublic school, there is a rebuttable presumption that the public school academy did not make the good faith effort required under this section.

**History:** Add. 1996, Act 300, Eff. Oct. 1, 1996.

**Compiler's note:** Former § 388.1769, which pertained to purchasing foreign goods or services, was repealed by Act 175 of 1993, Eff. Oct. 1, 1993.

### **388.1769a Michigan schools for the deaf and blind; information about residential programs; interference with right or ability prohibited; educational placement options.**

Sec. 169a. (1) A board member, official, or employee of a district or intermediate district shall not interfere with the right or ability of the Michigan schools for the deaf and blind to provide information about the residential program among parents and guardians of pupils or residents of the district or intermediate district.

(2) Upon determining that a pupil is deaf or hard of hearing, a district or intermediate district shall provide to the pupil's parent or legal guardian information, provided by the Michigan coalition for deaf and hard of hearing persons, on educational placement options for deaf and hard of hearing children.

(3) Upon determining that a pupil is blind, a district or intermediate district shall provide to the pupil's parent or legal guardian information, provided by the Michigan federation for the blind, on educational placement options for blind children.

**History:** Add. 1996, Act 300, Eff. Oct. 1, 1996;—Am. 1997, Act 93, Eff. Oct. 1, 1997.

**Compiler's note:** Former § 388.1769a, which pertained to reports, was repealed by Act 336 of 1993, Eff. Oct. 1, 1994.

### **388.1769b Contract in which board member has conflict of interest; abstention from voting.**

Sec. 169b. A board member of a district, intermediate district, public school academy, or public school academy corporation shall abstain from voting on any contract in which the board member has a conflict of interest.

**History:** Add. 1996, Act 300, Eff. Oct. 1, 1996.

## ARTICLE 17



**388.1771 Repeal of §§ 388.1401 to 388.1572; certain references considered references to former act.**

Sec. 171. (1) Act No. 90 of the Public Acts of 1977, as amended, being sections 388.1401 to 388.1572 of the Compiled Laws of 1970, is repealed.

(2) A reference to a section or subsection of this act applicable to a fiscal year ending before October 1, 1979, shall be considered a reference to the section, subsection, or provision of former Act No. 90 of the Public Acts of 1977 or former Act No. 258 of the Public Acts of 1972, governing the same subject matter, as determined by the department.

**History:** 1979, Act 94, Eff. Oct. 1, 1979.

**388.1771a Repealed. 1984, Act 239, Eff. Oct. 1, 1984.**

**Compiler's note:** The repealed section pertained to revised method of distributing general membership aid.

**388.1772 Effective date.**

Sec. 172. This act shall take effect October 1, 1979.

**History:** 1979, Act 94, Eff. Oct. 1, 1979.

# Table Of Contents

<b>THE STATE SCHOOL AID ACT OF 1979 — Act 94 of 1979</b>	<b>1</b>
388.1601	Short title. 1
388.1602	Meanings of words and phrases. 1
388.1603	Definitions; A to D. 2
388.1604	Definitions; E to H. 2
388.1605	Definitions; I. 2
388.1606	Additional definitions. 7
388.1606a	Supplemental pupil count. 8
388.1606b	Enrollment of nonresident pupil; counting pupil in membership; adjustment of educating district's pupil count. 8
388.1606c, 388.1606d	Repealed. 1996, Act 300, Eff. Oct. 1, 1996. 8
388.1607	Expenditures included in costs for school operating purposes. 8
388.1608	Repealed. 2003, Act 158, Eff. Oct. 1, 2003. 8
388.1608a	Grades K-3 average pupil count; report. 8
388.1608b	Public school academy district code; assignment. 9
388.1608c	Repealed. 2003, Act 158, Eff. Oct. 1, 2003. 9
388.1609	Repealed. 1996, Act 300, Eff. Oct. 1, 1996. 9
388.1610	Repealed. 1999, Act 119, Imd. Eff. July 20, 1999. 9
388.1611	Appropriations. 10
388.1611a	School aid stabilization fund; deposit; expenditure; investment; money remaining at close of fiscal year; shortfall. 11
388.1611b	School aid stabilization fund; allocation for 2003-2004. 11
388.1611c	School aid stabilization fund; deposit not later than December 31, 2003; conditions. 11
388.1611d	Repealed. 1996, Act 300, Eff. Oct. 1, 1996. 11
388.1611e	Repealed. 1999, Act 119, Imd. Eff. July 20, 1999. 11
388.1611f	Payments to non-plaintiff districts pursuant to <i>Durant v State of Michigan</i> ; payments for fiscal years ending September 30, 2004 through September 30, 2008; submission of waiver resolution; creation of obligation or liability; offer of settlement and compromise; payment date; use of payments; form and substance of resolution. 13
388.1611g	Payments to non-plaintiff districts pursuant to <i>Durant v State of Michigan</i> ; payments for fiscal years ending September 30, 2003 through September 30, 2013; waiver resolution; offers of settlement and compromise; creation of obligation or liability; calculation of amount; payment date; use of funds. 14
388.1611h	Amounts to districts for settlement, compromise, and resolution of claims pursuant to <i>Durant v State of Michigan</i> ; section not to be construed as admission of liability or waiver of defense. 29
388.1611i	Borrowing money and issuing bonds. 29

## Table of Contents

388.1611j	School loan bond redemption fund; allocation.	30
388.1611k	Repealed. 2001, Act 121, Imd. Eff. Sept. 28, 2001.	30
388.1612	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	30
388.1613	Apportionments and limitations of apportionments; basis; counting pupil membership and professionals.	30
388.1614	Defective returns; duties of department.	30
388.1615	Apportionment of deficiency or deduction of excess in remaining apportionment; state aid overpayments to districts other than overpayments for special education; deduction due to adjustment as result of audit or incorrect payment; funding expenditures caused by write-off of prior year accruals.	31
388.1616	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	31
388.1617	Repealed. 1992, Act 148, Eff. Aug. 1, 1992.	31
388.1617a	Withholding payment district or intermediate district entitled to receive under act; extent; plan for financing outstanding obligation defaulted upon by district or intermediate district; use of amounts withheld; agreement assigning or pledging payment; statement; "trustee of a pooled arrangement" defined.	31
388.1617b	Amounts to be distributed in installments to districts; statement; payments; warrant; adjustments; grant payments; advance release of funds.	32
388.1617c	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	32
388.1618	Application of money received under act; determining reasonableness of expenditures; withholding apportionment for violation; audit; manuals; reports; retention of property by public school academy; failure to comply with subsections (2), (3), (4), or (5).	33
388.1618a	Grant funds to be expended by end of school year; effect of funds not expended; return of unexpended funds.	33
388.1618b	Property of public school academy to be transferred to this state.	34
388.1618c	Contract between public school administrator and third party.	34
388.1618d	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	34
388.1619	Compliance; information to be provided for annual progress report; report of graduation and dropout rates; educational personnel; failure to comply with certain requirements; failure to meet accreditation standards; list of schools or districts failing to make adequate yearly progress; appeal of determination; publication of list.	35
388.1619a- 388.1619c	Repealed. 1990, Act 207, Eff. Oct. 1, 1990.	35
388.1620	Foundation allowance per membership pupil; payments to districts, public school academies, and university schools; definitions.	40
388.1620a	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	40
388.1620b	Repealed. 2000, Act 297, Eff. Oct. 1, 2000.	40
388.1620c	Repealed. 1997, Act 142, Imd. Eff. Nov. 19, 1997.	40
388.1620d	Requirements for final determination under §§ 388.1620 and 388.1620a.	40
388.1620e, 388.1620f	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	40

## Table of Contents

388.1620g	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	41
388.1620h, 388.1620i	Repealed. 1997, Act 93, Eff. Oct. 1, 1997.	41
388.1620j	Foundation allowance supplemental payments; amounts.	41
388.1620k	Reduction in district's state school aid; determining maximum number of mills district may levy.	41
388.1621, 388.1621a	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	41
388.1621b	Tuition and fee support for pupil attending postsecondary institution.	42
388.1621c	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	42
388.1621d	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	42
388.1621e	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	42
388.1622	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	42
388.1622a	Allocations for 2003-2004; payments to districts, university schools, and public school academies; definitions.	44
388.1622b	Allocations for 2003-2004; discretionary nonmandated payments; administration of standardized assessment; payments for court costs; allegation of unfunded constitutional requirement; escrowed funds as work project; use; determination; review of claim by local claims review board; removal to court of appeals; payment provisions.	45
388.1622c	Repealed. 2002, Act 191, Eff. Oct. 1, 2002.	45
388.1623	Instructional program operated by public university.	45
388.1623a- 388.1623c	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	46
388.1623d	Repealed. 1994, Act 360, Eff. June 30, 1995;—1995, Act 130, Eff. Oct. 1, 1995.	46
388.1623e	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	46
388.1624	Allocations for 2002-2003 and 2003-2004; payments for educating students assigned by court or family independence agency.	47
388.1624a	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	47
388.1624b	Parents or legal guardian residing in different districts; enrollment of child.	47
388.1625	Enrollment of expelled pupil enrolled in alternative education program; report; payment; information provided to department and district.	47
388.1625a	Payment of amount to educating district.	48
388.1625b	Applicability of section to educating district not first class; conditions; “educating district” defined.	48
388.1625c	Applicability of section to educating district of first class; conditions; “educating district” defined.	49
388.1626	Receipt or reduction of funds by district or intermediate district.	49
388.1626a	Reimbursements to districts, intermediate districts, and school aid fund pursuant to § 125.2692; adjustments.	50
388.1627, 388.1628	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	50

## Table of Contents

388.1628a	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	50
388.1629	Repealed. 1993, Act 175, Eff. Oct. 1, 1993.	50
388.1631	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	50
388.1631a	Funding to eligible districts and public school academies; additional allowance; number of pupils meeting criteria for free breakfast, lunch, or milk; “at-risk pupil” defined.	53
388.1631c	Repealed. 2000, Act 297, Eff. Oct. 1, 2000.	53
388.1631d	Reimbursement to districts providing school lunch programs.	53
388.1631e	Reimbursement for cost of providing breakfast.	53
388.1632	Repealed. 2000, Act 297, Eff. Oct. 1, 2000.	53
388.1632a	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	54
388.1632b	Programs to improve school readiness and positive parenting skills, enhance parent-child interaction, promote growth, and access community services; grants; data collection system; office for safe schools; duties of department and superintendent; use of funds; carrying over unexpended funds.	55
388.1632c	Grants for community-based collaborative prevention services; distribution of funds through joint request for proposals process; requirements; agreement.	55
388.1632d	School readiness or preschool and parenting program grants; evaluation; contract; report; “employment status” defined.	56
388.1632e	Repealed. 2002, Act 191, Eff. Oct. 1, 2002.	56
388.1632f	Allocations under § 388.1632a(1); purpose; eligibility criteria; application form and manner; availability of matching funds; grant award decision; priority; report; payment schedule; carrying forward excess amount.	59
388.1632g, 388.1632h	Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.	59
388.1632i	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	59
388.1632j	Programs for parents with preschool children.	59
388.1633	Repealed. 2002, Act 191, Eff. Oct. 1, 2002.	60
388.1634, 388.1634a	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	60
388.1635	Repealed. 2001, Act 121, Imd. Eff. Sept. 28, 2001.	60
388.1636, 388.1636a	Repealed. 2000, Act 297, Eff. Oct. 1, 2000.	60
388.1637	Eligibility of district for allocation under § 388.1632d; preapplication; final application; consortium; submission of resolution showing certain risk factors.	61
388.1637a	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	61
388.1638	Number of prekindergarten children in need of special readiness assistance; calculation.	61
388.1639	Tentative allocation to eligible district under § 388.1632d; priority in funding; contingency; supplementary day care; district with 315 or more eligible pupils; additional eligible children.	62
388.1639a	Allocation of federal funds; definitions.	63



## Table of Contents

388.1640	Children in need of special readiness assistance; alternative methods of determining number; review; report.	64
388.1641	Instruction for pupils of limited English-speaking ability; allocation; reimbursement; use of funds.	64
388.1641a	Instruction for pupils of limited English-speaking ability; allocation of federal funds.	64
388.1645-388.1648	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	64
388.1651	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	65
388.1651a	Allocations for reimbursement to districts and intermediate districts for special education programs, services, and personnel, certain net tuition payments, and programs for pupils eligible for special education programs; allocation of state and federal funds; reimbursement; total payment; adjustments; rights, benefits, and tenure of transferred personnel; refund; foundation allowance; order of expenditures.	67
388.1651b	Funding; compliance with rules.	67
388.1651c	Reimbursement for percentage of special education and special education transportation costs.	68
388.1651d	Federally funded special education programs; distribution; payment schedule; "DED-OSERS" defined.	68
388.1652	Special education programs and services; reimbursement; limitation.	68
388.1653	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	68
388.1653a	Special education programs and services; reimbursement of total approved costs; limitation; costs of transportation; allocation.	69
388.1654	Intermediate district to receive amount for pupil attending Michigan schools for the deaf and blind.	70
388.1655	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	70
388.1656	Definitions; reimbursement to intermediate districts levying millages for special education; limitation; distribution plan; computation.	70
388.1657	Advanced and accelerated pupils; support services; summer institutes; development and operation of comprehensive programs.	71
388.1658	Special education transportation services; basis.	71
388.1661	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	71
388.1661a	Vocational-technical programs; added cost; reimbursement for local vocational administration, shared-time vocational administration, and career education planning district vocational-technical administration; allocation.	72
388.1662	Definitions; vocational-technical education programs; limitation.	73
388.1663	Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.	73
388.1664	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	73
388.1665	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	73
388.1666	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	73
388.1667	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	73

## Table of Contents

388.1668	Michigan career preparation system; allocations and regional career preparation plan; review by education advisory group; definitions.	76
388.1671, 388.1672	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	76
388.1673	Repealed. 1986, Act 212, Eff. Oct. 1, 1986.	76
388.1674	School bus driver safety instruction or driver skills road tests; cost of instruction and driver compensation; nonspecial education auxiliary services transportation.	76
388.1675	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	76
388.1676	Funding for transporting nonpublic school students.	77
388.1681	Allocations to intermediate districts; amounts; report of adjustment and amount of increase; employment of person trained in pupil counting.	78
388.1681a	Repealed. 1988, Act 318, Eff. Oct. 1, 1988.	78
388.1683	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	78
388.1684	Repealed. 1991, Act 118, Imd. Eff. Oct. 11, 1991.	78
388.1685	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	78
388.1686	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	78
388.1690	Repealed. 1992, Act 148, Eff. Oct. 1, 1992.	78
388.1691	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	78
388.1691a	Cessation of pilot intermediate district schools of choice program; enrollment of nonresident pupil in district.	78
388.1691b	Repealed. 2000, Act 297, Eff. Oct. 1, 2000.	78
388.1691c	Transfer student; eligibility to participate in interscholastic athletic competition.	78
388.1692a	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	78
388.1693	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	78
388.1694	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	79
388.1694a	Center for educational performance and information.	81
388.1695	Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.	81
388.1696	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	81
388.1697	Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.	81
388.1698	Michigan virtual high school; powers and duties of Michigan virtual university.	82
388.1698a	Repealed. 2001, Act 121, Eff. Oct. 1, 2001.	82
388.1698b	Freedom to learn program.	85
388.1699	Mathematics and science centers.	85
388.1699a	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	85

## Table of Contents

388.1701	Eligibility to receive state aid; filing certified and sworn copy of enrollment; failure to file; withholding state aid; falsification; minimum hours of pupil instruction; forfeiture; certification; strikes or teachers' conferences; rules; hours not counted as pupil instruction; alternative scheduling program for pupils in kindergarten; certification of planned number of hours of pupil instruction; conditions requiring forfeiture; guidelines for providing minimum number of hours of instruction; application; waiver for alternative education program; counting professional development as pupil instruction.	88
388.1701a	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	88
388.1702	Deficit budget or operating deficit prohibited; release of state aid payments; report; amount of permissible deficit; monthly monitoring report; plan to eliminate deficit; district considered to have incurred deficit.	88
388.1703	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	88
388.1704	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	88
388.1704a	State assessments to high school pupils.	91
388.1705	Counting nonresident pupils in membership; application and enrollment; procedures.	93
388.1705a	Counting nonresident pupils in membership; applicability to district not operating all of grades K to 12.	93
388.1705b	Intermediate district operating under pilot schools of choice program.	93
388.1705c	Enrollment by nonresident applicants residing in district located in a contiguous intermediate district.	96
388.1706	Pupils not counted in membership.	96
388.1707	Allocation for adult education programs.	98
388.1707a	Family resource center curriculum blue ribbon study committee; delivery of adult education and related family services; recommendations; qualifications and appointment of members; timetable.	99
388.1707b	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	99
388.1707c, 388.1707d	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	99
388.1707e	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	99
388.1707f	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	99
388.1708	Adult learning programs.	102
388.1709	Providing appropriate instructional services to pupil requiring hospitalization or confinement at home.	103
388.1711	Tuition rates; computation; uniformity.	103
388.1712	Full-day kindergarten; tuition or fee prohibited.	103
388.1713	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	103
388.1716	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	103
388.1717	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	104
388.1718	Conditions for allotment or payment; failure to pay full amount; remittance; deduction from school aid.	104
388.1721	Valuation of district; adjustments.	104

## Table of Contents

388.1721a	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	104
388.1722	Deducting valuation of property from valuation of district; condition; credit as lien; payment of school aid fund.	104
388.1724	Reducing valuation of district when taxes paid under certain conditions; credits as lien against district; payment to school aid fund; implementation of subsection (2).	105
388.1743- 388.1744a	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	105
388.1745	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	105
388.1746	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	105
388.1746a	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	105
388.1747	Allocations to public school employees' retirement system.	106
388.1748, 388.1749	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	106
388.1749a, 388.1749c	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	106
388.1751	Statement of taxable value; duty of tax tribunal; report.	106
388.1752	Reports for determination of allocation of funds; information; reports of educational progress.	106
388.1752a	Repealed. 1995, Act 130, Imd. Eff. June 30, 1995.	107
388.1753	Furnishing information to legislative fiscal agencies.	107
388.1754	Repealed. 1996, Act 300, Eff. Oct. 1, 1996.	107
388.1755	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	107
388.1756, 388.1757	Repealed. 1993, Act 336, Eff. Oct. 1, 1994.	107
388.1758	Repealed. 2003, Act 158, Eff. Oct. 1, 2003.	107
388.1758a	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	107
388.1758b	Report by district receiving federal impact aid.	107
388.1758c	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	107
388.1759	Repealed. 1993, Act 175, Eff. Oct. 1, 1993.	107
388.1761	Violation as misdemeanor; penalty.	107
388.1761a	False report; court order.	107
388.1762	Failure to file reports; forfeiture of funds.	108
388.1763	Prohibited conduct; deduction; notice; misdemeanor; penalty.	108
388.1763a	Enrollment of homeless child; definition.	108
388.1764	Forfeiture of amount equal to expenditure for cars or chauffeurs.	108
388.1764a	Receipt by school administrator of monetary payment in lieu of unused vacation or personal leave.	108
388.1764b	Payment or reimbursement of board member expenses.	109
388.1764c	Purchase of foreign goods or services.	109

## Table of Contents

388.1764d	Adoption, implementation, or issuance of certain policies, practices, or statements; prohibition.	109
388.1764e	Student teaching; employment discrimination prohibited.	109
388.1765	Reimbursement by entity in contractual shared time agreement.	109
388.1766	Dispensing or distributing family planning or drug or device, dispensing prescriptions for family planning drug, or making referrals for abortion; forfeiture.	110
388.1766a	Instruction in reproductive health or other sex education; complaint process.	111
388.1766b	Minor enrolled in nonpublic school or home school.	111
388.1766d	Repealed. 2002, Act 191, Imd. Eff. Apr. 26, 2002.	111
388.1766e	Construction of new building, or addition to or repair or renovation of existing building; use of competitive bid process.	112
388.1767	Plan for compliance with §§ 333.9209 and 380.1177; report of immunization status; districts subject to subsection (4); failure to comply with section.	113
388.1767a	Repealed. 1995, Act 130, Eff. Oct. 1, 1995.	113
388.1768	Access to records; audit.	113
388.1768a	Removing or contracting to remove asbestos.	113
388.1769	State aid to public school academies.	113
388.1769a	Michigan schools for the deaf and blind; information about residential programs; interference with right or ability prohibited; educational placement options.	113
388.1769b	Contract in which board member has conflict of interest; abstention from voting.	113
388.1771	Repeal of §§ 388.1401 to 388.1572; certain references considered references to former act.	114
388.1771a	Repealed. 1984, Act 239, Eff. Oct. 1, 1984.	114
388.1772	Effective date.	114